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EL MALPAIS NATIONAL MONUMENT AND BIG CYPRESS NATIONAL PRESERVE

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 56

A BILL TO ESTABLISH THE EL MALPAIS NATIONAL MONUMENT, THE MASAU TRAIL, AND THE GRANTS NATIONAL CONSERVATION AREA IN THE STATE OF NEW MEXICO, AND FOR OTHER PURPOSES

S. 90

A BILL TO ESTABLISH THE BIG CYPRESS NATIONAL PRESERVE ADDITION IN THE STATE OF FLORIDA, AND FOR OTHER PURPOSES

FEBRUARY 19, 1987

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EL MALPAIS NATIONAL MONUMENT AND BIG CYPRESS NATIONAL PRESERVE

THURSDAY, FEBRUARY 19, 1987

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator BINGAMAN. Why don't we go ahead and get the hearing started. Let me begin by indicating that we have two bills to be discuss this morning. I am hoping we can move right along in this and finish by 12.

We have S. 90, introduced by Senators Chiles and Graham, and we also have S. 56 introduced by Senators Domenici and myself; and of course there is the companion measure, H.R. 403 which has been introduced by Congressman Richardson on the House side.

I would like to just say a few things to open, and then defer to my colleague, Senator Domenici, to do the same, and then we will start with some witnesses here. I know Senator Graham needs to go forward quickly and testify and get on to another hearing that he is on.

Before we start the testimony, let me indicate that Senator Bumpers, who is the subcommittee chairman, will not be able to attend this hearing this morning and has asked me to sit in for him, which I am glad to do.

I will begin by inserting a statement in the record for Senator Bumpers related to the matters pending before us.

[The prepared statement of Senator Bumpers follows:]

Statement by Senator Dale Bumpers

The purpose of the hearing this morning is to receive testimony on two measures currently pending before the Subcommittee on Public Lands, National Parks and Forests.

S. 56 would establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area - all in the State of New Mexico. This measure was introduced in the Senate by Senators Domenici and Bingaman. A companion measure (H.R. 403) has been introduced in the House by Congressman Bill Richardson.

S. 90, introduced by Senators Chiles and Graham would add approximately 136,000 acres to the existing Big Cypress National Preserve in South Florida. Congressman Tom Lewis has introduced a companion bill in the House.

Both of these bills were considered to some degree in the last Congress. Each has strong bipartisan political support as well as considerable local support. While there are some issues that remain to be resolved regarding both bills, it is my hope that the Committee can move forward on these two legislative items fairly expeditiously. I look forward to working with my four Senate colleagues as well as the appropriate House sponsor on these proposals.

Senator **Bingaman**. As you all know, the purpose of this hearing is to receive testimony on the two measures that I have referred to before.

S. 90 would add approximately 136,000 acres to the existing Big Cypress National Preserve in south Florida. Congressman Tom Lewis has introduced a companion bill on the House side.

S. 56 would establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area, all of course in New Mexico.

Copies of both of these measures will be inserted in the record.

Because of the large number of witnesses, I think we would like to limit the oral testimony if we could, and ask people to summarize their testimony as briefly as they can. Let me say a few things about the El Malpais bill.

S. 56 would establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area. I would like to of course welcome all the witnesses we have got here from New Mexico. I particularly appreciate the expenses and time that these folks put out to travel here.

This legislation is identical to the consensus proposal developed at the end of the last session by members of the New Mexico delegation. The proposal is a byproduct of collaboration between experts of the National Park Service, the Bureau of Land Management including the Park Service Director William Mott and the former New Mexico BLM State Director William Lusher, and many interested individuals and groups in our State.

The legislation protects important natural and scientific resources in the Grants area, provides a much-needed focus for the development of our tourist industry, and ensures that visitors will be able to appreciate the unique educational and scenic opportunities offered by the El Malpais.

I think we were clearly setting an example to be followed in the future when economic and conservation interests can go hand in hand and work for the mutual benefit of an area.

The key elements of the bill of course will be elaborated by the witnesses, and I will defer going into all of those at this point. But I am pleased of course to associate myself with this proposal. I believe that it will assure that this and future generations have the opportunity to experience the rich and varied cultural resources of that part of our State.

I have joined with my colleagues in the delegation to work for the quick enactment of this legislation, and look forward to this hearing as one of the steps in bringing about that quick enactment.

[The prepared statement of Senator Bingaman and the texts of S. 56 and S. 90 follow:]

Statement of Hon. Jeff Bingaman, a U.S. Senator From the State of New Mexico

Senator Bumpers, the Subcommittee Chairman, will be unable to attend the hearing this morning and has asked me, in my capacity as Vice Chairman, to sit in for him.

The purpose of the hearing this morning is to receive testimony on two measures currently pending before the Subcommittee on Public Lands, National Parks and Forests.

S. 90, introduced by Senators Chiles and Graham, would add approximately 136,000 acres to the existing Big Cypress National Preserve in South Florida. Congressman Tom Lewis has introduced a companion bill in the House.

S. 56 would establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area—all in the State of New Mexico. This measure was introduced in the Senate by Senator Domenici and myself. A companion measure (H.R. 403) has been introduced by our colleague in the House, Congressman Bill Richardson.

Because of the large number of witnesses on the list today, it will be necessary to limit the oral testimony. Therefore, I will ask you all to please summarize your written statement in five minutes. Your complete written statement will be made a part of the hearing record and made available to all Committee members.

EL MALPAIS

S. 56 would establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico. I would like to welcome the witnesses who are here to testify today. I particularly appreciate the time and expense represented by those of you who have traveled here from New Mexico. This legislation is identical to a consensus proposal developed at the end of the last session by members of the New Mexico delegation. This proposal is the product of the collaboration between experts of the National Park Service and the Bureau of Land Management, including Park Service Director William Mott and former New Mexico State BLM Director William Luscher and many interested individuals and groups in the state.

This legislation protects important natural and scientific resources in the Grants area and provides a much needed focus for the developing tourist industry and ensures that visitors will be able to appreciate the unique educational and scenic opportunities offered by El Malpais. I think we are clearly setting an example to be followed in the future when economic and conservation interests can go hand-in-hand and work for the mutual benefit of the area. This is a healthy foundation on which to build our growing tourism industries and to help bring economic prosperity to the region.

The key elements of this bill include the following:

An approximately 126,000 acre El Malpais National Monument administered by the National Park Service, including the Candelaria Ice Caves and Bandera Crater,

Authorization of El Malpais Visitors Center at the Candelaria Ice Cave property,

Designation of the Masau Trail—an auto touring route linking prehistoric and historic cultural sites in western New Mexico,

An approximately 254,000 acre Natural Conservation Area administered by the Bureau of Land Management,

Establishment of 115,000 acres of BLM wilderness, including Rimrock, Little Rimrock, Sand Canyon, Pinyon, and West Malpais wilderness study areas, and an area known as Hole-in-the-Wall.

Wilderness study for roadless areas of the National Monument and restudy the Chain of Craters Wilderness Study Area for possible designation as wilderness,

Direction to develop management plans for BLM and Park Service area, including plans for protection of archeological resources.

The bill also:

Permits grazing, hunting, trapping, non-commercial wood gathering in the BLM area, and

Protects the full range of traditional Native American uses.

I am pleased to associate myself with this proposal—one I believe will assure this and future generations the opportunity to experience the rich and varied resources of El Malpais. I have joined with my colleagues in the delegation to work for quick enactment of this legislation and to that end I look forward to hearing the views of many witnesses who are before this committee today.

II

100th CONGRESS
1st Session

S. 56

To establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 6, 1987

Mr. Domenici (for himself and Mr. Bingaman) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EL MALPAIS NATIONAL MONUMENT

Sec. 101. (a) In order to preserve for the benefit and enjoyment of present and future generations that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately one hundred and twenty-six thousand acres as generally depicted on the map entitled "Boundary Map, El Malpais National Monument" numbered NM-ELMA-80000-A and dated October 1986. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 102. Lands and waters, and interests therein, within the boundaries of the monument which were administered by the Forest Service, United States Department of

Agriculture, prior to the date of enactment of this Act are hereby transferred to the administrative jurisdiction of the Secretary to be administered as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall administer the monument in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). The Secretary shall protect, manage, and administer the monument in such a manner as to preserve the scenery, the natural, historic, and cultural resources of the monument and to provide for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in section 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1996,

the Secretary shall allow, notwithstanding any other provision of law, the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1996, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management.

TITLE II—MASAU TRAIL

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in western New Mexico which are accessible by public road, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary"), with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in western New Mexico. Such route shall be known as the Masau Trail (hereinafter referred to as the "trail"), and shall be marked with an appropriate marker to guide members of the visiting public. With the concurrence of the State or local entity having jurisdiction over such roads so designated, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker.

SEC. 202. The trail as initially designated shall include public roads linking El Malpais National Monument as established pursuant to title II of this Act, El Morro National Monument, Chaco Culture National Historical Park, Aztec Ruins National Monument, Salinas National Monument, Bandelier National Monument, and Canyon De Chelly National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of natural significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail.

TITLE III—GRANTS NATIONAL CONSERVATION AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in Western New Mexico containing the unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flow, there is hereby established the Grants National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately two hundred and fifty-three thousand acres of publicly owned land as generally depicted on a map entitled "Grants National Conservation Area—Proposed", dated October 1986.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a map and legal description of the conservation area designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. The map and legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 302. (a) In order to protect for the benefit and enjoyment of future generations that area in Western New Mexico containing the unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flow, the Secretary, acting through the Director of the Bureau of Land Management, shall administer the conservation area as a unit within the Albuquerque District in accordance with this Act and in accordance with the laws pertaining to the public lands managed by the Bureau of Land Management, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

TITLE IV—WILDERNESS DESIGNATION

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there is hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, approximately one hundred and fifteen thousand acres as generally depicted on the map entitled "Grants National Conservation Area—Proposed Wilderness" and dated October 1986.

(b) As soon as practicable after the enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this section shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Within the wilderness area designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

SEC. 501. (a) Within two years from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate separate general management plans for the monument and the conservation area which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) Implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area.

(2) Proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico.

(3) Natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area.

The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the Pueblo of Acoma and their traditional cultural and religious authorities, and shall provide for long-term scientific use of archeological resources in the monument and the conservation area, including the wilderness areas designated by this Act.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or nonsuitability for preservation as wilderness those lands comprising approximately sixteen thousand six hundred acres, identified as "Bureau of Land Management Wilderness Study Area 020-001C" (hereinafter in this title referred to as the "WSA") in the Draft Environmental Impact Statement and Wilderness Study Report for Wilderness Designation of El Malpais, as filed with the Environmental Protection Agency on August 9, 1981.

(2) Pending submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, acting through the Director of the Bureau of land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the national wilderness preservation system.

(c)(1) The general management plan for the monument shall review and recommend the suitability or nonsuitability for preservation as wilderness those roadless lands within the boundaries of the monument.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage those roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System.

SEC. 502. (a) Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by donation or exchange.

(b) The Secretary of the Interior shall exchange such public lands or interests in lands, as are of approximately equal value and selected by the State of New Mexico, acting through its Commissioner of Public Lands, for any State lands or interests therein located within the boundaries of the monument or the conservation area.

(c) Within six months after enactment of this Act, the Secretary of the Interior shall notify the New Mexico Commissioner of Public Lands what State lands or interests therein are within the monument or the conservation area. The notice shall include notice of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the monument or conservation area. The notice shall contain a listing of all public lands within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as available to the State in exchange for State lands within the monument or the conservation area.

(d) After the receipt of the list of available public lands, if the Commissioner of Public Lands gives notice to the Secretary of the State's selection of lands, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State and Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the Commissioner as to relative value of the acquired and selected lands, the Secretary and the Commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents approximate equal value. Such determination will be binding on the Secretary and the Commissioner. The transfer of title to lands or interests therein to the State of New Mexico shall be completed within 2 years after the enactment of this Act.

SEC. 503. Subject to valid existing rights, all Federal lands within the monument and the conservation area, and all Federal lands and mineral rights acquired within the monument and conservation area, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any activity carried out pursuant to valid existing mineral rights shall be conducted in accordance with applicable Federal and State law.

SEC. 504. In recognition of the past use of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument and the conservation area by Indian people for such traditional cultural and religious purposes, including the harvest of pine nuts. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plans prepared pursuant to section 501, the Secretary shall, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, define the past cultural and religious uses of the monument and the conservation area by Indian people.

SEC. 505. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in western New Mexico. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

TITLE VI—APPROPRIATION AUTHORIZATION

SEC. 601. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act.

II

100TH CONGRESS
1ST SESSION

S. 90

To establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. CHILES (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) AMENDMENT OF BIG CYPRESS NATIONAL PRESERVE ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the

Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (Public Law 93-440; 88 Stat. 1257).

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley");

(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on

lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) PURPOSE.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

SEC. 3. ESTABLISHMENT OF ADDITION.

The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 9. (a) In order to—

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

"(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 136,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated June, 1986, and numbered 176–91000B, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

"(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the Big Cypress National Preserve Addition.".

SEC. 4. ADMINISTRATION OF ADDITION.

(a) UNIT OF THE NATIONAL PARK SYSTEM.—The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 10. (a) The Secretary shall administer the Addition in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

"(b) In administering the Addition, the Secretary shall develop and publish in the Federal Register such rules and regulations as the Secretary deems necessary and appropriate to manage and control the use of Federal lands and waters with respect to—

"(1) motorized vehicles;

"(2) exploration for and extraction of oil, gas, and other minerals;

"(3) grazing and agriculture;

"(4) draining or constructing of works or structures which alter the natural water courses;

"(5) recreational uses, including hunting, fishing, and trapping, which shall be promoted and encouraged;

"(6) new construction of any kind; and

"(7) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act.

"(c) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.".

(b) HUNTING, FISHING, AND TRAPPING.—Section 5 of the Act of October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

(c) SUITABILITY AS WILDERNESS.—Section 7 of the Act of October 11, 1974, is amended—

(1) by inserting "with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

(d) INDIAN RIGHTS.—Section 6 of the Act of October 11, 1974, is amended as follows:

(1) In clause (i) insert "and the Addition" after "preserve" and insert "(January 1, 1985, in the case of the Addition)" after "1972".

(2) In clause (ii) insert "or within the Addition" after "preserve".

SEC. 5. ACQUISITION OF LAND WITHIN ADDITION.

(a) UNITED STATES SHARE OF ACQUISITION COSTS.—The first section of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

"(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended—

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) EXCLUSION OF SUBSURFACE ESTATE.—The third sentence of subsection (c) of such section is amended by inserting "and the Addition" after "preserve" each place it appears.

(f) IMPROVED PROPERTY IN ADDITION.—Section 3(b) of the Act of October 11, 1974, is amended—

(1) in clause (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in clause (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the

Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971," the second and third places it appears.

SEC. 6. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 11. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational and oil, gas, and mineral access points and roads, rest and recreation areas, appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Not more than 3 of such access points shall be located within the preserve (including the Addition).".

SEC. 7. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 12. Not later than one year after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

"(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

"(2) a summary of the public's use of the preserve and the status of all access rights for public and private use;

"(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

"(4) the status of land acquisition; and

"(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on 1-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary to acquire lands within the Addition.".

Senator **Bingaman**. Let me now defer to Senator Domenici for him to make whatever statement he would like before we begin the testimony.

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator **Domenici**. Thank you very much, Mr. Chairman.

First, let me welcome the New Mexicans who are here. I would welcome each one by name, but I think we have thirteen, so let us just hope that thirteen is a lucky number today and say thanks to you.

Congressman Richardson will testify shortly. We are pleased to have you here in the Senate with us.

Last year we agreed on the essence of this bill. We did not have time to get it done. Then-chairman Wallop concurred that we would start these hearings early; even though he is no longer chairman, I am pleased that Senator Bumpers and Senator Wallop have agreed with Senator Bingaman and I that we should conduct these expeditiously, and that is why we are here.

I would like to start by just making an observation about New Mexico. One of the most renowned travel experts, Arthur Frommer, has recently declared New Mexico to be one of the best vacation spots in the world. It is an area of magnificent beauty and a proud history.

There is no doubt in my mind that what we have put together here will increase New Mexico's attraction to travelers from all over the world. At the same time, clearly it will preserve and conserve some magnificent lands that are principally owned by the Federal Government. It will consolidate them and permit them to be managed in a manner consistent with both of those goals.

In addition, the City of Grants has lost about 7,000 jobs in recent times because of the collapse of the uranium industry, and that makes it urgent. It is urgent enough that about 850 local citizens have signed a petition expressing their concurrence to this proposal and urging us to proceed expeditiously. I have that petition, and I would ask that it be made a part of the record at this point.

Senator **Bingaman**. It will be included at this point.1[The text of the petition follows. Signed copies have been retained in subcommittee files.]

Petition

We, the undersigned, hereby endorse and recommend passage by the 100th United States Congress of H.R. 5726/S. 2932 a bill to establish the El Malpais National Monument, the Masau Trail and the Grants National Conservation Area in the State of New Mexico and for other purposes, as introduced by Senator Peter V. Domenici in the Senate and Representative Bill Richardson in the House of Representatives.

Senator **Domenici**. Clearly I could go into all of the details, as Senator Bingaman indicated, but I believe that will evolve with the witnesses. In concept, we will have a national monument with its own small visitor's center, and then we will have a new concept called the Masau Trail which will tie this attraction and a number of other attractions to be determined in the future together under one identifying approach and promotional capability called the Masau Trail, "Masau" being a part of ancient Indian religion.

The god masau is symbolized by a footprint, and if this works we will not only tie El Malpais to that, but we will tie some of our other beautiful attractions and ask the National Park Service to be the lead agency in promoting it. For that purpose, a major tourist center would be built in Grants to be managed by the Park Service.

Now obviously you do not put this large a proposal together without some problems, and we do not have unanimity, as Senator Bingaman and I were talking just before we arrived, with the national Administration. They do not agree with everything we have got in this bill, but I think they have come a long way, and I think before we are finished we can resolve the issues that we are not in accord on and expedite this matter as it deserves.

With that, I would ask that the remainder of my statement be made a part of the record so that we can proceed.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF
SENATOR PETE V. DOMENICI
ON S. 56, THE MASAU TRAIL ACT

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

FEBRUARY 19, 1987

Mr. Chairman,

Thank you for holding hearings on this legislation so quickly. S. 56 was originally introduced in the waning days of the 99th Congress. Congress was not able to act on the bill because we did not have the opportunity to hold hearings and the like. However, Senator Wallop, who was Chairman of this subcommittee at that time promised me that we would have hearings on this bill early in this Congress. I am grateful that, although Senator Wallop no longer chairs this subcommittee, you have seen fit to keep that promise.

This Act, which will establish the Masau Trail, the El Malpais National Monument, and the Grants National Conservation Area, will provide protection to some of New Mexico's most unique natural resources and also will promote tourism in New Mexico.

I am compelled to point out that renowned travel expert Arthur Frommer has recently declared New Mexico to be one of the ten best vacation spots in the world. It is an area of magnificent beauty and proud history. This bill will increase New Mexico's attraction to travellers from all over the world. Additionally, this bill will help the community of Grants, New

Mexico, which has lost 7,000 jobs in recent years due to the collapse of the uranium industry.

This bill is the product of some intense negotiations by members of the New Mexico Congressional delegation. In 1985, the Representative from the area, Bill Richardson, introduced legislation which would create a National Monument to be administered by the Bureau of Land Management in this area. Senator Bingaman, Representative Richardson, and I then began to work together to refine this proposal. We were assisted by members of the community of Grants, New Mexico, environmentalists, and professionals from the Bureau of Land Management and the National Park Service. By working together, were able to put together the bill that is now before the Committee. I believe that this bill embodies a responsible approach to protecting El Malpais for future generations and providing visitors with the opportunity to experience the natural and cultural treasures of New Mexico.

Specifically, the bill would:

* Designate the Masau Trail auto touring route linking prehistoric and historic cultural sites in western New Mexico, such as El Malpais, El Morro, Chaco Canyon, and Bandelier.
* Authorize the construction of Masau Trail Visitors' Center along Interstate 40 in Grants, New Mexico.
* Establish El Malpais National Monument, consisting of approximately 128,000 acres to be administered by the National Park Service under standard Park Service management.
* Authorize construction of El Malpais Visitors' Center.
* Create a National Conservation Area, consisting of approximately 253,000 acres to be administered by the Bureau

of Land Management, which would permit grazing, hunting, trapping, and non-commercial wood gathering in the area.

- Designate 115,000 acres of BLM wilderness, including Rimrock, Sand Canyon, Little Rimrock, Pinyon, and West Malpais Wilderness Study Areas, and an area known as Hole-in-the-Wall.
- Mandate the restudy of the Chain of Craters instant study area and the study of roadless areas of the National Monument for possible designation as wilderness.
- Protect Native American uses.
- Withdraw the lands from mining and mineral leasing laws, but protect valid existing rights.
- Direct the BLM and the Park Service to develop management plans for their respective areas, including plans for protection of archeological resources.

The Act is named after Masau, the great God-Man who welcomed the Indian people to the Earth from the underworld as they came through the sipapu, or place of emergence. According to the history of the Pueblo Indians, mankind has existed since the beginning of time, but lived for a long, long time underground. Eventually, mankind emerged from the underworld and was welcomed by Masau. He told them that they could not just wander over the earth until they found a place to settle. He told them how they must migrate across the land, how they were to recognize the place in which they were to settle permanently, and the way they were to live once they got there. Masau prophesized to the people that there would come a time when the villages they established during their migrations would fall into ruins and other people would wonder why they were built in such inhospitable regions. After Masau gave them a magic water jar to supply them on their migrations, the Pueblo people began their journey across the face of the earth, following Masau's huge footprints, which were as large as a man's arm, until they arrived in what is now New Mexico.

It is fitting that the Act be named after Masau. Modern-day travellers will be able to follow in the footprints of the ancient Indian people who travelled across New Mexico as they travel along the Masau Trail, which will be created by this legislation. The Masau Trail will be an automobile touring route which will link various historic and prehistoric sites of interest in northwestern New Mexico.

The purpose of this Trail is to introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico and to give them a comprehensive perspective on the history of the Indian peoples who populate the region. It will allow visitors to appreciate the continuum of history and culture, from ancient times to modern day, which is represented in the region. The Masau Trail will emphasize the interrelationship of all of the sites along the Trail.

The Trail will be marked by signs with giant footprints, the footprints of Masau. One can see examples of Masau's footprints in the ancient petroglyphs which cover the volcanic escarpment on the west side of Albuquerque, which is a potential stop along the Trail.

Mr. Chairman, I am extremely excited about this legislation. I believe that it will provide much needed protection to one of the most unusual and unique natural and cultural areas of the United States. It also will provide visitors to northwestern New Mexico with an incredibly comprehensive and rewarding education on the history of this region. Finally, it will give an area of New

Mexico which has suffered much from the collapse of the uranium industry a much-deserved shot-in-the-arm in the form of increased tourism. The magnificent thing about this legislation is that it can accomplish each of these objectives without excluding the others.

However, this proposal is by no means perfect. I know that some of the witnesses who come before us today will have suggestions on how to improve the legislation. I welcome their constructive comments and will work with all interested parties to fine-tune this bill.

In particular, I believe we will have to make some boundary adjustments to protect some ongoing grazing operations and to ensure that the National Monument boundary more closely tracks the natural features of the area. We also will have to include some language to assure that the owners of subsurface rights are treated fairly. I also am aware that the Acoma Indians, whose land borders El Malpais, wish to voice some concerns. I take those concerns seriously and am willing to work with them.

I also have been informed that a number of individuals would like to discuss the effect of this legislation on existing water rights in the area. I look forward to that discussion.

Mr. Chairman, last week I went to Grants to discuss this legislation with government officials, community leaders, and other interested parties. Senator Bingaman joined me. Over 125 persons showed up. Governor Carruthers, the State Secretary of Natural Resources, the State Land Commissioner, who is here with us today, the State Representative and State Senator from the area, the mayors of Grants, Milan, and Gallup, which are nearby towns, city and county commissioners, Indian pueblo governors, chamber of commerce officials, representatives of the Sierra Club and the Wilderness Society, and the like were all there. The support for this legislation is overwhelming. The City of Grants, Cibola County, the State of New Mexico want this bill. As evidence of this support, I have petitions signed by 843 local citizens expressing support for this proposal.

Mr. Chairman, in light of the tremendous support which this legislation has received, I hope that the Committee will act quickly and favorably on this legislation.

Senator **Bingaman**. Senator Fowler, did you have any opening statement before we begin testimony?

Senator **Fowler**. No. I look forward to hearing from our former Governor.

Senator **Bingaman**. Fine. We are going to move around a little bit here from one issue to the other. Our first witness is Senator Bob Graham, who is a co-sponsor of S. 90. As I understand it, his colleague, Senator Chiles, will be here shortly, but we will go ahead with Senator Graham's testimony.

We are glad to have you here.

STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator **Graham**. Thank you very much, Mr. Chairman. I am pleased to be here. This is my first opportunity to testify before a Senate Committee as a Member of the Senate, and I appreciate your courtesies and the opportunity to be here at a time when important Federal acquisitions in New Mexico and Florida are both being considered is especially meaningful.

As you have recognized the presence of a number of citizens from your State, I would also like to acknowledge the appearance here today of a number of Floridians who are supportive of this issue and concerned about the long-term well-being of the Florida Everglades.

Mr. Chairman, on May 13 of last year while I was Governor of Florida, I spoke before the House Subcommittee on National Parks and Public Lands on behalf of the Big Cypress. At that time, the importance of this land acquisition to the continued health and survival of the Everglades was clear.

Since that time, several events have occurred which further affect the Everglades, and which add a new sense of urgency to the passage of S. 90.

Lake Okeechobee has suffered a serious algae bloom—a deadly reaction to the chemical build-up in the water from surrounding agricultural and developed lands. The Lake is a vital feeder of water southward to the Everglades National Park.

At least one more Florida Panther has died. So many of them have been shot or hit by cars while trying to cross Alligator Alley that there are only about 30 Florida Panthers left in the world—most in one tiny area adjacent to and encompassed by the Big Cypress addition.

Construction has commenced on the conversion of Alligator Alley to Interstate 75. That construction means that severance damages to landowners affected by the conversion must soon be settled.

Florida has a new Governor, Governor Bob Martinez, who has expressed his enthusiastic support for S. 90. I would like to submit his letter, which was dated February 12, to Senator Bumpers, for the record.

Senator **Bingaman**. It will be included in the record.

Senator **Graham**. All of these events impart a sense of the urgency for our decision. To understand how significant this purpose is, it is necessary to understand some of the history of our interaction with the Everglades.

For nearly 100 years we viewed the Everglades as a commodity, a commodity with an infinite capacity to absorb change and to survive. Florida pioneers ditched and drained what was then regarded as a swampland. They built cities, carved out cattle ranches, planted farms. All of that development gradually diverted and dried up whole sections of the great "river of grass" which flowed through the heart of south Florida, a river of grass which nurtured countless unique species of plant and animal life and providing a continual source of fresh water to the southern part of our State.

The Everglades themselves, like the rare orchids and the Panthers they sheltered, became an endangered species. In our lifetime, we have seen the graphic and terrible results of letting the Everglades dry out.

In the early 1970s, and again in the early 1980s, during severe droughts half a million acres of hardwood and sawgrass went up in flames. The "river of grass" became a sheet of fire.

Between the early development and its belated disastrous effects, what appeared to be an unrelated event occurred, an event which holds one of the keys to safeguarding the Everglades and all of the irreplaceable treasures they shelter.

That event was the decision made in 1973 to use Alligator Alley, a 75-mile State ~~road~~ running from Naples to Fort Meyers, which is a State-financed toll road built in the 1950s, to use that corridor as the corridor for Interstate 75 between Naples and Fort Lauderdale.

Included in that decision was the recognition that local access to Alligator Alley would have to be eliminated, thus creating the necessity of severance of access damages to those landowners. That set of circumstances is the fortuitous element of a comprehensive plan to save the Everglades and the source of a rare bargain for the Federal Government.

Because severance damages must be paid to the landowners adjacent to the Alligator Alley conversion, we now have a chance to purchase a key part of a protective buffer surrounding Everglades National Park for about half of its appraised value: 136,000 priceless acres are suddenly within our grasp at a bargain price.

This Big Cypress addition is a component of a comprehensive strategy for the salvation of the Everglades. In 1983, Florida announced the Save our Everglades initiative. Through this initiative a partnership of the Federal Government, local governments, private citizens, and the State of Florida is attempting to turn back the clock. The goal of the Save our Everglades initiative is that by the year 2000 the Everglades will look and function more like they did at the turn of the century than they did in 1983.

A critical element of Save our Everglades is the preservation of Everglades National Park by an aggressive program of land acquisition which will build a protective envelope around the Park.

[A chart is shown.]

The chart indicates the areas which are to become that protective envelope. The orange represents areas which are currently in Federal ownership with Everglades National Park at the south, and the Big Cypress Federal Freshwater Preserve which was acquired largely in the mid-1970s and acquisitions are still going on today, complemented by a series of acquisitions on the east, two of which identified in the dark green have already been acquired by the State of Florida, and the other immediately to the north which will soon be acquired, and the Big Cypress addition by the red area to the north being critical to this protective envelope around Everglades National Park.

Ultimately the protected lands for the Everglades system will total about 3.4 million acres. About 3 million acres of this is currently owned by either the State of Florida or the Federal Government. The State donated most of the land for Everglades National Park when it was formed in 1947. In 1973, the State contributed $40 million to the purchase of the Big Cypress National Preserve.

Florida has acquired one million acres which protect and benefit the substantial Federal investments in Everglades National Park and the Big Cypress National Preserve. The 136,000 acre buffer zone around Big Cypress is crucial to the success of the Save our Everglades initiative, and to the maintenance of the second largest national park in the Continental United States.

The Everglades National Park is a tropical aquatic preserve—one of the eight United Nations designated International Biosphere Reserves in the world—the only subtropical park in the Nation's national park system.

Unlike other national parks such as Grand Canyon or Yosemite which are more or less self-contained, Everglades National Park is dependent on lands outside of its boundaries, dependent on water which can only be ensure if the land over which the water flows is publicly owned.

We have a responsibility to future generations to the preservation of an irreplaceable biosphere, to the rare species which exist nowhere else, to take advantage of this opportunity.

We do not have five or ten years to make a decision, Mr. Chairman. All the elements which make this possible are in place now. This partnership of commitment between Florida and the Federal Government is not merely a good idea, it is critical to the continued health of a considerable Federal investment.

The Big Cypress addition we seek today involves a minimal outlay for maximum return. The survival of Everglades National Park and the viability of the Everglades System, the protection of the largest number of endangered species inhabiting any national park in the country, including the survival of the Florida Panther, and an enduring drinking water supply for south Florida.

State and Federal cooperation in the purchase of the Big Cypress addition is profoundly more important than a good real estate deal. By acting responsibly and with consideration for the future, we can demonstrate that vision and good investment in this case are the same.

Mr. Chairman, I would like to add a postscript. I understand that you will hear testimony from the Administration suggesting that this legislation should be made contingent upon the completion of a land exchange between the Federal Government and private landowners in the Everglades for property owned in the State of Arizona.

That may be a very good arrangement for all parties. I would urge, however, that this bill, S. 90, not be tied to that exchange for the following reasons:

One, the issue here is: Should the Federal Government join in a partnership with the State of Florida to acquire 136,000 acres, the primary benefit of which would be to the protection of a Federal investment in the Big Cypress and Everglades National Park? If that decision is made in the affirmative, and I urge that it be so made, then it will be the responsibility of the State of Florida to determine how it will finance its part of that obligation, and a responsibility of the Federal Government to do likewise.

If the land exchange is the means by which the Federal Government chooses to accomplish its responsibilities, that is a very acceptable means of doing so.

Second, 25 to 30 percent of the 136,000 acres is not owned by the landowner who will be involved in the exchange. So there will still be the necessity for Federal consideration as to how to finance that portion of this property which will not be included in the exchange.

And finally, timing is urgent. I mentioned that last summer construction commenced on the conversion of Alligator Alley to Interstate status. That commenced at the eastern end of Alligator Alley and is proceeding in a westerly direction. Currently that construction is through publicly owned land, and so no right-of-way has been acquired.

But beginning later this year and early into 1988, construction will commence on the western portion of the Interstate which will be through currently privately owned land. It is those lands that are now going to be available and where there will be the requirement of paying severance of access damages, and where we can use that as the foundation of a fee simple acquisition to bring these lands into public ownership.

So for all those reasons, while the land exchange has many items to recommend it, I would urge that the two issues be kept separate, and that with the greatest possible expedition that this Committee and the Senate proceed to a favorable consideration of S. 90.

Thank you, Mr. Chairman.

[The letter from Governor Martinez follows:]

STATE OF FLORIDA
Office of the Governor
THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

BOB MARTINEZ
GOVERNOR

February 12, 1987

Senator Dale Bumpers, Chairman
Senate Subcommittee on Public Land,
National Parks and Forests
SD-308 Dirksen Senate Office Building
Washington D.C. 20510

Dear Mr. Chairman:

I join the entire Florida Congressional Delegation in support of legislation (S.90) before your subcommittee to expand the Big Cypress National Preserve in Collier County, Florida. Timely authorization and funding of federal acquisition of the proposed Big Cypress addition would accomplish a variety of important public purposes. These include:

- Enhanced protection for the heavily stressed Everglades National Park which is dependent upon its water flow from the Big Cypress Swamp;
- Additional protection for critical water supplies for rapidly growing Southwest Florida;
- Preservation of prime endangered species habitat, particularly that of the highly endangered Florida panther; and
- Expanded public recreation opportunities near areas experiencing significant growth pressures.

This legislation to expand the Big Cypress National Preserve would establish an equitable state-federal partnership to protect substantial national investments and to advance important national goals. The State of Florida has reserved state funds to enable its financial participation in the acquisition of the addition as evidence of its commitment to the partnership contemplated under this legislation.

Senator Dale Bumpers
Page 2

Prompt and favorable action on this legislation would also permit the "leveraging" of Transportation Department funds which must be paid in any event to private property owners within the proposed addition whose legal access will be severed by the construction of Interstate 75. These damage payments could total almost half of the addition and represent an exceptional opportunity to advance important public purposes at the lowest possible cost.

I appreciate your early scheduling of hearings on the Big Cypress expansion legislation and look forward to working with you and the Florida Congressional Delegation on its prompt passage.

Sincerely,

Bob Martinez
Governor

BM/mjd

cc: Senator Lawton Chiles
Senator Bob Graham

Senator BINGAMAN. Thank you very much, Senator Graham.

Let me just ask, before we call on Senator Chiles, if any of my colleagues here have questions to put to Senator Graham?

Senator Domenici?

Senator DOMENICI. I have none.

Senator BINGAMAN. Senator Fowler?

Senator FOWLER. I have none, except to say that Senator Graham is modest in his presentation. We would not have the cooperation, rare cooperation between the State of Florida and the Federal Government on this issue were it not for his initiative and leadership as Governor.

I think it is a wonderful opportunity, if we act.

Senator BINGAMAN. All right.

Senator Chiles has come in and is of course the other sponsor of this legislation. We are glad to have you here, and we are anxious to hear your testimony.

Senator GRAHAM. Mr. Chairman, thank you.

Senator BINGAMAN. Thank you, very much.

STATEMENT OF HON. LAWTON CHILES, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator CHILES. Mr. Chairman, thank you.

I am playing hookey from the Budget Committee, and I appreciate you putting me on. I see other people that are playing hookey from the Committee, as well, today.

Senator BINGAMAN. We nearly have enough——

Senator CHILES. I am glad to find out where some of the people are on the Budget Committee.

Senator DOMENICI. You are right, Mr. Chairman. I am here, and not there.

Senator BINGAMAN. We might have enough people here to have a meeting of the Budget Committee.

Senator FOWLER. Might I have your dispensation to go to the Budget Committee at this time?

Senator CHILES. Surely.

Mr. Chairman, I am pleased to appear before the subcommittee today to speak on our proposal to expand the Big Cypress National Preserve in south Florida. I am delighted to be joined and preceded by the new Senator from Florida. Senator Graham brings to the Senate a distinguished record in environmental conservation, and in particular a sincere commitment to the measure before this subcommittee today.

I appreciate your willingness to hold an early hearing on S. 90. In the interests of time, I will briefly present my comments on the bill, and then ask that my formal statement be inserted in the record.

I would also like to submit testimony from my colleague in the House and sponsor of a similiar measure, Congressman Tom Lewis. I might note that this measure has the full support of the Florida delegation. Congressman Lewis has done an outstanding job for us on the House side, and all of our Florida delegation is strongly supportive.

[The prepared statement of Mr. Lewis follows:]

STATEMENT OF HONORABLE TOM LEWIS
Subcommittee On Public Lands, National Parks And Forests

Thursday, February 19, 1987

Mr. Chairman, thank you for the chance to come as the House sponsor of legislation to expand the Big Cypress, and testify on the importance of the Big Cypress National Preserve Addition.

As I've stated many times in the past, this legislation provides a unique opportunity to protect a major land area in Southwest Florida for an important addition to the Big Cypress National Preserve Addition.

One of the few remaining large parcels of pristine land left in Florida, this area is of unquestioned environmental importance and beauty. As part of the watershed of the Big Cypress Preserve and Everglades National Park, this land is habitat for a wide variety of plants and animals; including the Florida Panther, the bald eagle, native orchids and many other species now at risk. The addition of these lands to the Big Cypress National Preserve would provide a much needed buffer zone for Everglades National Park, a state resource and national treasure.

There is absolutely no doubt that this bill is an important piece of environmental legislation. However, it is also vital to recognize that it is much, much more. For as surely as wildlife in the Everglades are linked to the wetlands for survival, so too are the growing urban populations of South Florida dependent upon these very same wetland areas as recharge sources for drinking water. Simply stated, this legislation is needed to ensure that South Florida's water supply will keep pace with its population increases.

During hearings on the House side last year, my bill received widespread praise and unanimous, bipartisan support. The House version of this bill was approved by the full House of Representatives on July 28, 1986 and adds 136,000 acres to the existing Big Cypress National Preserve. In addition, the House Subcommittee on National Parks and Recreation adopted amendments designed to help clarify and enhance the intent and viability of this legislation.

Clearly, this area is worth preserving for its unique and wild beauty, but it's also worth protecting because it forms the water supply system for more than 4.5 million residents of Southern Florida. Therefore, because of the significant public benefit associated with the acquisition of this land, I urge the support of the Subcommittee on Public Lands, National Parks and Forests for this important legislation.

Again, Mr. Chairman, thank you for the opportunity to speak on behalf of this vital legislation.

Senator CHILES. Mr. Chairman, this subcommittee faces many difficult public lands decisions in the 100th Congress with the huge Federal deficit looming overhead. It is necessary that each proposal to move lands into public ownership be scrutinized, weighing both economic and environmental concerns.

The Big Cypress Preserve has played an important role in the State of Florida's effort to restore the Everglades to their natural state. We now have the opportunity to strengthen that role. The construction of I-75 along Alligator Alley will sever access to that private property south of the highway requiring the payment of about $45 million in severance damages by the Department of Transportation.

Our strategy, Mr. Chairman, is to combine the process of paying the severance damages with acquiring the remaining interests in the lands into a single event. That is going to save additional administrative costs that would result from a second round of appraisals and negotiations. Severance damages are going to cover nearly half the cost of the land acquisition.

The State of Florida has agreed to provide funds for 20 percent of the remaining cost. I would like to share the State's continued commitment to this acquisition by providing later for the record a letter from Governor Bob Martinez, the new Governor of Florida.

From this fiscally responsible investment, we gain several valuable benefits.

First, an expansion of the preserve that will extend protection to four endangered species, including the Florida Panther. Currently all Florida Panthers in existence live in this particular region. The design for I-75 provides for wildlife crossings to allow Panthers and other species to pass safely under the Interstate, and expansion would allow for more rangeland for these animals to roam with freedom. The taxpayer also stands to gain directly from moving these lands into public ownership; expanding the preserve which was visited by over 375,000 people last year is going to open new opportunities for education and recreation in an area rich with fauna and flora.

Finally, the ecologically sensitive lands themselves will be protected for the betterment of the entire south Florida region. I believe the appearance here today by a number of highly respected environmental and recreational groups attest to the significance of the importance of this legislation.

Mr. Chairman, I am sure we are going to hear a lot of talk here today about a land swap. I have not seen any final agreement on the swap, and understand that there are many parties involved and they are continuing to try to reach an agreement.

There are no certainties that the land swap will be worked out, and it would be just downright stupid to miss the opportunity to maximize the financial savings that can be achieved with passage of this bill. The State of Florida will shortly begin the process of paying severance damages. It is my hope that we can take advantage of this unique opportunity to save money by joining the process of paying severance damages with acquisition of the remainder of the surface rights, and acquire these environmentally sensitive lands.

I certainly appreciate the opportunity to discuss this bill before you, and I thank you all again very much for holding an early and very timely hearing in this matter.

[The prepared statement of Senator Chiles and a subsequent submittal from Governor Martinez follow:]

SENATOR LAWTON CHILES
February 19, 1987
SENATE SUBCOMMITTEE ON PUBLIC LANDS
S. 90, BIG CYPRESS EXPANSION LEGISLATION

Mr. Chairman, I am pleased to appear before this Subcommittee today to speak to my proposal to expand the Big Cypress National Preserve in South Florida. This measure calls for moving 136,000 acres of land in South Florida to public ownership. And I am delighted to be joined by the new Senator from Florida. He brings to the Senate a distinguished record in environmental conservation and, in particular, a sincere committment to the measure before this Subcommittee today.

Mr. Chairman, this subcommittee faces many difficult public lands decisions in the 100th Congress. With a huge Federal deficit looming overhead, it is necessary that each proposal to move lands into public ownership be scrutinized, weighing both economic and environmental concerns. Undertaking an ambitious parkland acquisition project in this era of tight budgets and limited Federal dollars understandably raises some questions. I am an advocate of spending restraint and believe in this time of Federal deficits we must work diligently to find creative ways of meeting important national goals and direct limited Federal dollars to areas of high priority.

However, I believe you will find that this legislation is a sensible investment. An investment that offers high returns at a reasonable cost. The acquisition program contemplated in this legislation represents an innovative approach to achieving equally important multiple objectives.

Lands purchased for inclusion in the Big Cypress National Preserve would be in conjunction with the planned construction of Interstate 75, providing an important opportunity to utilize Federal dollars already allocated for the construction of an Interstate Highway to accomplish environmental restoration and endangered species protection.

Mr. Chairman, I am sure we are going to hear a lot of talk about a land swap. I have not seen any final agreement on this swap and understand that the many parties involved are continuing to try and reach an agreement. But there a no certainties that the land swap will be worked out and it would be just downright stupid to miss the opportunity to take advantage of the financial savings that can be achieved with passage of my bill. The State of Florida will shortly begin the process of paying severance damages. It is my hope that we can take advantage of this unique opportunity to save money and acquire environmentally sensitive land.

I would like to first outline reasons why these particular lands should be in Federal ownership. Then, I want to explain why we should move on this land acquisition program as soon as possible. And, finally, I want to make a few comments on the management of the Big Cypress.

WHY FEDERAL OWNERSHIP IS JUSTIFIED

Acquiring these particular lands will enhance ongoing activities aimed at protecting Everglades National Park and preserving the endangered Florida Panther.

As an original sponsor of the Federal legislation establishing the Big Cypress National Preserve, I am keenly aware of the critical role water quality and quantity plays in ensuring the livelihood of Everglades National Park. Though large in acreage, the 1,337,000 acre Everglades National Park is fragile and totally dependent on the complex hydrology of the entire region. Located at the end of a watershed, the Park's livelihood is dependent on the quality and quantity of water that flows into it. The 574,000 acre Big Cypress National Preserve was established by Congress in 1974 to make sure this important watershed area was not further developed or disrupted. Additionally, the purchase of this areas has provided significant recreational opportunities which will become increasingly important as South Florida continues to experience growth and development. To date nearly $180 million in Federal funds has been appropriated to purchase these important lands.

Alligator Alley, the cross-state highway going from Andytown in Broward County to Naples, has disrupted the natural water flow in the Big Cypress Preserve area and has posed a major threat to Florida Panthers and other wildlife of the region. The road functions as a dam in some areas, causing unnatural pooling of water while at the same time interrupting the important sheet flow so essential to Everglades National Park. The construction of I-75 along Alligator Alley provides an important opportunity to correct these hydrological problems and, in fact, plans are underway to ensure that this is done. Public ownership of the lands bordering the I-75 corridor will expand the watershed protection offered to Everglades National Park, prevent future development of these lands, and increase recreational opportunities for the general public.

In addition, it is important to point out how public ownership of these identified lands will foster efforts currently underway to protect the habitat of the Florida panther and other endangered species. There are currently estimated to be 20-30 Florida Panthers in existence, making it among the most endangered species on Earth. All known Florida panthers in existences live in Everglades National Park, the Big Cypress National Preserve and Fakahatchee Strand.

The 136,000 acre area proposed for purchase under this bill contains land critical to the continuing survival of the endangered Florida panther. Panther fatalities have occurred as a result of automobile traffic on Alligator Alley. Provisions for wildlife crossings in the design for I-75 to allow panthers and other species to cross under the interstate show the commitment of the State in the continued protection of endangered species. The State of Florida Department of Transportation supports the construction of 23 new wildlife crossings and 13 bridge extensions, estimated to cost $12.9 million. The State has agreed to finance that portion of the total cost which is determined to be nonparticipating by the Federal Highway Administration, approximately $10 million. Public acquisition and management of these lands by the National Park Service as envisioned in this bill will complement the efforts of the Fish and Wildlife Service National Wildlife Refuge and will ensure that everything possible is done to guarantee the protection of panther, and other endangered species habitat.

WHY TIMELY ACTION ON THIS PROGRAM IS NECESSARY

The conversion of Alligator Alley to I-75 will sever existing access to private property north and south of the highway, requiring the payment of damages to the property owners by the Department of Transportation. Estimates are that severance damage funds, which must in any event be expended, will equal 47 percent of the value of the affected lands. The proposed legislation contemplates using the severance damage monies to pay a portion of the cost of acquiring privately owned land located immediately north of the existing Big Cypress National Preserve. The balance of the purchase price would be paid by the Department of the Interior and the State of Florida in the same cost-sharing arrangement (80/20) found in the original Big Cypress legislation. Significantly reduced Federal expenditures for administrative and appraisal costs are possible if acquisition can be accomplished in conjunction with payment of the severance damages.

If we act quickly to enact this legislation enabling the utilization of the DOT severance damage funds, we will make it possible for the public to acquire these environmentally significant lands for substantially less cost than would otherwise be possible.

I do want to briefly mention the extent to which the State of Florida has demonstrated its commitment to a partnership with the Federal Government to achieve the goals I have outlined. As I mentioned previously, the State is willing to go above and beyond its necessary role in financing the construction of I-75 to enhance environmental restoration and endangered species protection. The 1985 Florida Legislature enacted legislation designating this regiona as an "area of critical State concern."

This designation gives the State eminent domain power over this land and thus will facilitate the joint Federal-State acquisition program for this property. This designation will also help protect the area against development until acquisition is complete. Additionally, the State has committed a portion of some $22 million in State funds for land acquisition in the whole Everglades area to the Big Cypress addition project. The actions by the State of Florida coupled with the accelerated schedule for the construction of this portion of I-75 point to the need for expedient and positive action by Congress to approve this land acquisition program. I hope the members of the Committee will join in this effort to protect and preserve the national treasures associated with Everglades National Park and Big Cypress National Preserve.

MANAGEMENT OF THESE LANDS

The legislation I have sponsored contemplates that the lands added to the existing Big Cypress National Preserve will be managed consistently with those within the already established boundaries. The legislation amends the original act, however, by including a mandate in Section 10(b) for the Park Service to promote and encourage recreational use. I appreciate having this opportunity to comment on the Park Service role in allowing and regulating various activities allowed for under the original Big Cypress National Preserve Act.

Recognizing the "recreational values of the Big Cypress Watershed", the Preserve concept was developed so as to permit the continuation of the traditional activities associated with this area -- activities which may have not been compatible with more stringent management requirements of a National Park. The Public Law establishing the Preserve charges the Park Service to provide for "the enhancement and public enjoyment thereof". While I did not envision that the allowable activities would be unregulated, I certainly did envision that these activities would be permitted and encouraged. My overriding concern, however, is that over the years the Park Service has moved toward employing managing objectives for this area as if it were a Park as opposed to embracing a more flexible management structure as I believe was envisioned in the creation of the Preserve concept.

I understand and appreciate the difficulties in achieving a balance between providing for the public enjoyment of the recreational values of the Big Cypress and assuring the ecological integrity of the Preserve. While it is not an easy task, it is certainly one which was full contemplated when the Preserve was established. Resource problems other than the original hydrological concerns, such as the endangered Florida Panther, have surfaced since the creation of the Preserve which need attention and action on the part of the various affected agencies. Public use and enjoyment of the area should be controlled and regulated, but it should be allowed and encouraged. What I don't want to see is the resource problems being a means by which to reduce and/or eliminate the public use and enjoyment of areas where public funds have been used to acquire the land. I believe we can reach a balance and have expressed my concerns to the Regional Director of the National Park Service. I stand ready to work with this Committee as well as we strive to solve the diverse and complex problems associated with this unique area.

Finally, let me note that, due to a mistake in drafting, there is a necessary technical amendment to S. 90 which relates to oil, gas, and mineral access points. I will be glad to work this out with the Committee for the mark-up.

Again, Mr. Chairman, I am pleased that your Subcommittee has held an early hearing on this legislation, and I look forward to securing passasge of this measure.

STATE OF FLORIDA
Office of the Governor
THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

BOB MARTINEZ
GOVERNOR

March 9, 1987

Honorable Dale Bumpers, Chairman
Senate Subcommittee on Public Land,
  National Parks and Forests
SD-308 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

I appreciate your subcommittee's attention to Big Cypress National Preserve addition legislation (S.90). This legislation is very important to Federal and State efforts to protect the hydrological and ecological systems of Everglades National Park, Big Cypress National Preserve, and Southwest Florida.

A question has arisen regarding Florida's commitment to the purchase of the Big Cypress addition. On January 7, 1986, the Governor and Cabinet set aside $22.5 million in land acquisition funds for purchases in the Everglades system. These funds were intended to be used to purchase lands in three major state acquisition projects; the Holy Land and Rotenberger Tracts in Palm Beach County, the Fakahatchee Strand in Collier County and the Big Cypress addition.

To date, $6.5 million of the $22.5 million has been spent on purchases in the Holey Land and Rotenberger Tract and the Fakahatchee Strand. The remaining $16 million continues to be available for Everglades purchases, including the State's share of the Big Cypress addition which is currently estimated to be $12 million under the arrangement contemplated in S.90.

Floridians have worked with their Congressional Delegation for over two years in developing the specific proposal embodied in S.90. Based on early estimates of the cost of purchasing the land in the proposed Big Cypress addition and the Federal/State cost-sharing contemplated in the bill, we anticipate Florida's share to be approximately $12 million.

Honorable Dale Bumpers
March 9, 1987
Page 2

I would emphasize the State presently has no commitment to possible alternative funding arrangements which could significantly increase the State's cost of contribution to the acquisition purchase.

I trust the State's position on this issue is adequately clarified and look forward to early Senate action on this important legislation.

With best regards

Sincerely,

Bob Martinez

Governor

BM:ml

cc: Senator Lawton Chiles
Senator Bob Graham
Mr. Dave Johnson, Florida Washington Office

Senator BINGAMAN. Well, thank you very much, Senator Chiles. Let me see if my colleague, Senator Domenici, has any questions.

Senator DOMENICI. No. I just wanted to know if anybody is at the Budget Committee hearing.

Senator CHILES. We are certainly missing much of the brainpower there that we see here, but we hope——

Senator DOMENICI. We have a very important issue here today, so we will pass the budget. Thank you.

Senator BINGAMAN. Well, thank you very much for testifying. We appreciate it. This will be considered by the full subcommittee.

Senator CHILES. Thank you, very much.

Senator BINGAMAN. At this point, let me shift subjects here. We have as a witness today Congressman Bill Richardson who if he would come forward to be the lead-off witness on the legislation pending here in the Senate, S. 56, which he has introduced the companion bill of in the House.

Let me just say that Congressman Richardson is the first Member of Congress to really take the lead on the preservation of the Malpais, and introduced legislation last year which was—or the year before last, but was acted on last year, and he has done an outstanding job in promoting what the purpose of this legislation is.

So we are glad to have you here today, and we are glad to hear your testimony, Bill.

STATEMENT OF HON. BILL RICHARDSON, A U.S. REPRESENTATIVE FROM THE STATE OF NEW MEXICO

Mr. RICHARDSON. Thank you very much, Senator Bingaman, and Senator Domenici.

I would like to, in the interests of time, Senator Bingaman and Senator Domenici, just insert my statement in the record and just make a few remarks. I know you have got a long day, and I think the main thrust and description of this bill should be given to the people of Grants who have probably agonized and worked the most on this issue.

Let me just say that I think the new bill as we have submitted, the compromise version, out of the original House bill is a strengthening of the original piece of legislation I believe by the addition of the Masau Trail, I believe by several other initiatives that deal with the Wilderness designation creating the five new Wilderness areas, two other areas restudied for Wilderness designation, designating the rest of the region as a national conservation area to be managed by the BLM, and then the 126,000 acres encompassing the main lava flow as the National Monument to be managed by the Park Service.

I think this is a first-rate piece of legislation that does two things: It promotes tourism; and it spurs economic development. It brings tourism and economic development to an area that has been davastated by mining problems related to the uranium industry.

The people of Grants, instead of lying down and quitting after they had problems with uranium, got together and devised many initiatives to diversify their economy, whether it was creating a new ski area in one of their mountains, or whether it was initiating Wilderness legislation like this, or whether it was trying to get a prison located in the area, they just never quit.

I think this a manifestation of their interest, of their dreams, and I would urge this Committee to pass this legislation as rapidly as possible. I want to commend this Committee for scheduling such early hearings. I want to commend this Committee for the professionalism that it has dealt with this issue and with the rapidity that it has dealt with this issue, recognizing the need to move rapidly so that the people of Grants and the entire Cibola County and northwestern New Mexico area which this benefits can get along with a very needed boost in their tourism economy.

Let me just mention that it is our intent in the House Interior Committee to pass this bill within the next 30 days and hopefully within the next 60 days to pass the full bill on the House floor. I would urge this Committee as much as it can to preserve the bill as introduced. I think there is a possibility for some technical amendments that make sense. I have had, for instance, two ranchers from the Grants area write to us asking for accommodations in some of the boundaries. I think those two are reasonable. There was some concern early on about the issue of water rights. I believe that after conversations with the State water engineer, and I believe the testimony that they may be presenting today that this may not be a problem because we are not talking about significant water resources in the area.

Therefore, I believe my two colleagues that it is important that we move rapidly, that we move on this consensus piece of legislation that I believe is strongly needed, but once again I wish to commend both of you for significantly strengthening what I think was a fine bill and it is now a much better bill, a bill that not only preserves the integrity of our land management agencies, the BLM, the Park Service, one that perhaps gives the BLM a continuing role in multiple use because by having one of the archways, the southern archway, be managed by the BLM, as I believe the Park Service will be recommending, we are looking at giving the BLM a role in the management of the entire process and perhaps a niche as it looks for a new mandate in the eighties and nineties to also get into mutliple use.

So, with that statement, I would like to once again urge early rapid passage of the bill, but once again commend you for moving the way you have and for constructively improving on the bill and for constructively getting the entire executive branch behind this bill, because now we have the potential of a reality coming into fruition, something that is needed, that is good for our State, that is good for the country, and I wish to thank both of you for scheduling this hearing.

[The prepared statement of Mr. Richardson follows:]

February 19, 1987

Statement of
Congressman Bill Richardson
Subcommittee on Public Lands, Reserved Water and Resource Conservation

S.B. 65/ H.R. 403
The El Malpais National Mounument, Grants National Conservation Area
and Masau Trail Bill

Mr. Chairman, Mr. Vice Chairmen, and distinguished Members of the Subcommittee, it is indeed a pleasure for me to have the opportunity to appear before you this morning. I am delighted that the Subcommittee has made the El Malpais bill one its top hearing agenda priorities in the 100th Congress.

As you may know, late in the 99th Congress, Senators' Bingaman, Domenici and myself rolled up our sleeves and worked hard to develop a compromise El Malpais initiative, using my House passed bill as a starting point for discussions. What we achieved from those discussions is the result of Senate Bill 65 and House Bill 403 -- a comprehensive proposal that balances community needs and national interests.

The El Malpais National Monument Bill is extremely important to the people of my Congressional District, as evidenced by the wide coalition of New Mexico citizens who are here today. I want to welcome them to Washington. The El Malpais bill has the support of a broad coalition of citizens, local and state government, and state and national environmental organizations. Senators' Bingaman, Domenici and myself have worked hard to ensure that this legislation is sensitive to the wide and varied land use needs of the Cibola County area. I am encouraged by the level of cooperation by the Bureau of Land Management and the National Park Service in New Mexico to hammer out technical boundary differences and to facilitate an expedited exchange of remaining mineral rights that lie within the boundaries of the proposed areas to be protected.

Mr. Chairman, when most everything else in New Mexico's economy seems to wanning -- the decline of our domestic mining and oil and natural gas industries -- our tourism industry is on the rise. In 1977, Grants New Mexico was the uranium mining capitol of the world. In 1987, the uranium capitol of the world has moved to South Africa. This teaches us not only an important lesson about foreign trade; but it also teaches us an important lesson about the need to diversify our local economies. The El Malpais National Monument Bill will give a badly needed economic boost to the Cibola County community by making it a tourist center and the Masau Trail component will help other New Mexico communities by linking together major tourist attractions throughout the state.

Mr. Chairman, study after study has supported protection for the El Malpais area. The El Malpais National Monument Bill is designed to protect a sensitive and unique environmental area that contains some of the best examples of volcanic landscape in the Continental United States. The bill will establish a National Monument and visitors center operated by the National Park Service, a National Conservation Area with protected wilderness lands operated by the Bureau of Land Management, and the establishment of the Masau Trail -- an auto touring route linking prehistoric and historic cultural sites throughout New Mexico.

In the past, there has been some discussion over water rights in wilderness areas. Mr. Chairman, in regards to the El Malpais National Monument Proposal, I want to stress that the State Water Engineer in New Mexico has said that there are insignificant water resources involved in the area. There is no need to tag this bill as the vehicle to resolve the national water rights in wilderness areas issue. It makes little sense to create a problem where none exists.

Mr. Chairman, New Mexicans have traditionally felt strongly about the preservation of their 'natural economic capital', not only for the unique beauty of the land which deserves to be protected for the enjoyment of all Americans; but because they may become more dependent on it for their livelihoods in the future. Such lands help to boost tourism for a state that has been suffering from the decline of our mining industries. I am delighted that Senators' Domenici, Bingaman and myself have been able to present a united front and come up with a good, solid, workable plan that will provide the essential ingredients to promote tourism, economic development, and recovery in the region and a plan that will provide the national protection that the environmentally sensitive lands in El Malpais truly deserve.

Mr. Chairman, I want you to know that I am pushing for the early passage of the El Malpais National Monument Bill over on the House side. Congressman Manuel Lujan has joined with me in cosponsoring this important national initiative. I hope that Members of the Subcommittee will take the opportunity to become acquainted with this unique area and lend their bipartisan support to this energetic proposal during the 100th Congress. Thank you for your time and attention.

Senator **Bingaman**. Thank you very much, Congressman. As I said initially, your leadership on this has, of course, been crucial, and we, of course, appreciate the cooperation that we have had between the House and the Senate on this. Senator Domenici, do you have any comments or questions?

Senator **Domenici**. No questions. Just a couple of observations and comments. Congressman Richardson, first, let me thank you for your kind words today. There is no question but that for about 15 years people have been talking about doing something there. I think you are absolutely right. It was the people of Grants that decided that we have to do something, and you took the initiative, and I compliment you for it. I also hope that we can get this bill accomplished essentially in its current form, but we will have some disputes. The administration has some concerns. They express some water concerns. You are aware of that. I hope we can resolve that. I think we can.

They have some concerns about some of the boundaries and some of the mining claim prospects. I think we can resolve those. I hope we can. I hope the private sector is cooperative with us in that regard, and I believe they will be. There may be a couple of other minor boundary adjustments, as you indicated, but for the most part I believe we will be able to accommodate in some way getting a bill substantially like this out of the Senate. I appreciate your coming here today to lend some impetus to it, and I also appreciate your sending your chief assistant to Grants last week. We did get the Governor of the State to attend, and he was very enthusiastic. I think it was a great learning process for a number of people about the conservation area, the monument, and the Masau Trail as a tourism concept.

Thank you so much.

Senator **Bingaman**. We will let the Congressman go back to some of the Committee hearings he is undoubtedly having to miss over on the House side. Thank you very much for coming.

I think our next witness, as I understand it, is the Honorable William P. Horn, who is the Assistant Secretary for Fish and Wildlife and Parks of the U.S. Department of the Interior, and Mr. Horn is prepared, as I understand it, to testify both on S. 56 and on S. 90 and give the Administration's views on these two proposed pieces of legislation.

We are glad to have you here, Mr. Horn.

STATEMENT OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR ON S. 90; ACCOMPANIED BY DAVE O'NEAL, DEPUTY DIRECTOR, BLM; AND LEE MAYTUBBY, BUREAU OF INDIAN AFFAIRS

Mr. **Horn**. Thank you, Mr. Chairman.

Let me take this in sequence and start with the Big Cypress, S. 90, and then basically turn to the El Malpais area in S. 56.

I am accompanied by Dave O'Neal, who is the Deputy Director of BLM, and Lee Maytubby, from the Bureau of Indian Affairs. They are accompanying me to deal with any questions that the Committee may have related to the El Malpais matter.

Starting on S. 90, for the record, Mr. Chairman, I am William Horn, Assistant Secretary of the Interior for Fish, Wildlife, and Parks. I am pleased to present our views on S. 90, a bill to establish and expand the Big Cypress National Preserve in the State of Florida.

In the interest of brevity, I would like to submit my fairly lengthy statement for the record and provide a summary of it.

We oppose enactment of this legislation in its present form unless it is amended to provide for acquisition by exchange, and I am prepared to discuss the configuration of the exchange we are presently pursuing. We are persuaded that the proposed exchange represents a better approach for the protection of the environment and does so without directly adding to budget expenditures, an important consideration in this era when we are all striving to meet the Gramm-Rudman-Hollings deficit reduction targets.

S. 90 would authorize and direct the addition of 136,000 acres of private lands to the Big Cypress Preserve in south Florida. The share of the costs to be borne by the Department of the Interior for acquiring the surface rights to these lands would be in the range of $40 to $60 million of newly appropriated moneys. Recognizing that both Big Cypress Preserve and Everglades National Park fulfill important functions in preserving natural sheet flows so vital to the continuing conservation of nationally significant fish, wildlife, and other resources in southern Florida, we have substantial efforts under way to increase the extent of conservation of these resources. These efforts include the aggressive pursuit of a land acquisition package broader than that outlined in S. 90.

Our fundamental problem with S. 90 has nothing to do with the resources. We agree wholeheartedly with Senator Chiles and Senator Graham about the need and the desirability of protecting these resources and adding these lands to the conservation estate. Our problem is solely that S. 90 imposes direct budgetary costs on the Federal Government that we view as excessive given our current fiscal conditions, and if S. 90 were enacted as introduced, we would incur new monetary obligations comparable to the approximately $52 million appropriation for Park Service land aqcuisition nationwide in the present fiscal year, and this would be for the acquisition of surface rights only.

Senator **Bingaman**. Are you asking for rescission of that $52 million?

Mr. **Horn**. I believe there is a rescission proposal pending right now.

Senator **Bingaman**. Thank you.

Mr. **Horn**. Although we have a backlog in our land acquisition program we also have the problems associated with the overall Federal deficit. We cannot support a measure which in and of itself adds substantially to this backlog, particularly when we believe we have an alternative which provides for greater environmental benefits, does not add a single dollar to the Federal debt, and generates revenues for other purposes. S. 90 proposes acquisition of surface rights only in accordance with the approach adopted in the original 1974 Big Cypress legislation.

There are extensive oil and gas reserves beneath the existing preserve, and the prospect of additional hydrocarbon discoveries under the addition as well. Access to the mineral rights must be provided or we must compensate the owners. The environmentally preferred access routes are from the north off Alligator Alley. As the Park Service advises us, it would pose significant environmental threats to grant further access from the only roads farther to the south. S. 90 would limit access, and if the provisions from S. 90 were enacted and proved inadequate to permit development of the mineral rights, the owners would undoubtedly seek compensation in the courts.

We understand that the State of Florida estimates that the value of these mineral rights could exceed $1 billion. This is an extra measure of Federal liability that we absolutely cannot accept. Fortunately, there is an alternative which will provide all of the environmental benefits outlined in S. 90, offer an extra measure of protection to important wildlife resources, and totally avoid the budgetary problems I have noted.

We are in the process of completing negotiation of an agreement pending finalization of appraisals and routine legal matters for a land exchange with two Florida corporations. These corporations own a majority of the lands proposed for acquisition by S. 90 as well as other large tracts nearby which are of equal or greater environmental importance. These companies, Collier Enterprises and Barron Collier Corporation, would receive Federal lands in Phoenix, Arizona, that are presently used as the site of an Indian school now proposed for closure. The Phoenix property is estimated to be worth approximately $100 million.

In return for that property we would receive approximately 115,000 acres of land in Collier County for conservation purposes worth approximately $50 million, after the payments of severage damages that the two Senators spoke of, plus a cash payment of $50 million to the Department to equalize the value of the exchange. Our intent is to complete and review appraisals for all the properties in the proposal and then to move to complete negotiations on final boundaries and values, and I anticipate that activity to be completed in four to six weeks.

I am optimistic that this agreement can be reached in this time period. Now, the lands: the 115,000 acres include approximately 70,000 acres of the lands in the northern addition and 15,000 acres on the western boundary strip, both tracts which would be added to the Big Cypress preserve, along with 30,000 acres which would allow us to complete acquisition of the Florida Panther National Wildlife Refuge and allow us to create a new Ten Thousand Islands National Wildlife Refuge and Preserve sensitive habitat along the southwest Florida coast.

These refuge areas are not a part of S. 90. Hence, the exchange offers a broader array of environmental benefits. Now, I will not go into great detail about the environmental values of the two refuge areas. That is covered in the statement.

The exchange has one other fundamental attribute that we think is very important in that it should also largely resolve the issue of access to the retained mineral estate and thereby virtually ensure that the Federal Government will not be exposed to the potential $1 billion liability mentioned earlier. The exchange agreement would accomplish this by assuring access to the retained mineral estate provided that reasonable environmental standards are met. It is important to note that oil and gas extraction pursuant to a retained mineral estate presently occurs within the Big Cypress preserve at the Raccoon Point and Bear Island oilfields, as expressly permitted by the Congress.

Under the exchange agreement, environmental protection standards substantially similar to those presently in force within the preserve would be applied by the exchange agreement to the exchange lands. Applications for exploration and development activities on the lands would be reviewed pursuant to a process similar to that employed in the Atchafalaya National Wildlife Refuge in Louisiana.

Now, the exchange agreement does not cover all of the lands outlined in S. 90. It would leave approximately 57,000 acres of land not owned by the Collier interests in private ownership. We estimate that this remaining acreage after payment of severance damages would be worth approximately $20 million, and we note that the State of Florida's share of acquisition costs under the formula contained in S. 90 would be slightly over $20 million, and that the State has already appropriated these sums of money.

We would therefore propose that the State use this money to acquire the remaining lands, the non-Collier lands, from the present owners and subsequently transfer title to the Department for inclusion in the Big Cypress unit. As a result of this combination, the exchange in S. 90 with Florida bearing its share of the costs would add a grand total of 172,000 acres to the Nation's conservation estate without appropriating a single dollar from the Federal Treasury.

These major additions to the park and wildlife refuge system would be of significant, enormous benefit to both Florida and the Nation, and of course, as indicated, with no cost to the Federal taxpayer. Furthermore, the exchange would result in a $50 million payment which would generate additional revenue to the government which could be used for the benefit of the tribes historically served by the school in Phoenix as well as furtherance of Departmental programs or whatever combination of these or other purposes the Congress might direct.

We fully recognize that there must be support from the Indian tribes and other interests in Arizona and Florida for the exchange to proceed and be approved. To this end, I am pleased to report that we are making substantial progress. At a House Interior Committee meeting held last week in Arizona, the Arizona Intertribal Council expressly noted that their agenda regarding the school property would accommodate this exchange proposal.

Similarly, the Mayor of Phoenix testified that although the city has not yet reached a point where they could now endorse a rapid disposition of the school lands, they do believe that arrangements could be accomplished very shortly that would provide a combination of open space and development that would be satisfactory to the city within the context of this exchange proposal.

Lastly, the Governor of Arizona supports the exchange contingent upon the concerns of the city and the tribes being resolved.

I believe that we are within striking distance in the very near future of resolution both of the details of the exchange between the

Department and the Collier interests and of the concerns of the affected parties in Arizona. The outlook is entirely positive, and I am confident that we can shortly provide you with the detailed proposals for substitute legislation that would authorize this exchange and meet the approval of all the interested parties.

We accordingly request that the Committee amend S. 90 to provide for implementation of this exchange as we expect to have it finalized shortly, and we look forward to working with you to develop the necessary language.

Thank you. We would be pleased to answer any questions on this particular topic.

[The prepared statement of Mr. Horn on S. 90 follows:]

STATEMENT OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES CONCERNING S. 90, A BILL TO ESTABLISH THE BIG CYPRESS NATIONAL PRESERVE ADDITION IN THE STATE OF FLORIDA.

FEBRUARY 19, 1987

Mr. Chairman, I am William P. Horn, Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior. I am pleased to present our views on S. 90, a bill to establish the Big Cypress National Preserve in the State of Florida.

We oppose the enactment of this legislation unless it is amended to provide for acquisition only by exchange. I am prepared to discuss the current configuration of the proposed exchange with the Committee this morning. We are persuaded that the proposed exchange represents a better approach for the protection of the environment and for the taxpayer without directly adding to budget expenditures.

S. 90 would amend the Act of October 11, 1974, which established the Big Cypress National Preserve in Florida, by adding an additional 136,000 acres of private land to the Preserve. This legislation requires the acquisition of the surface rights to these lands, which lie both to the north and east of the present borders and in a strip along the western boundary, through a joint Federal-State effort in connection with the planned construction of Interstate Highway 75 through the tract of land proposed for acquisition.

Existing law requires the payment of severance damages to landowners whose access to their property is damaged or eliminated as a result of construction of the highway. The bill would require the Department of the Interior to provide 80 percent of the costs of acquisition and the State to provide 20 percent; however, these costs would be reduced by the amounts of payments, including severance damages, made to landowners within the proposed acquisition by either the Florida Department of Transportation or the Federal Highway Administration.

We understand that the State of Florida estimates the severance damages will approximate an additional amount equalling half the value of the surface rights of the land proposed for acquisition. The cost to the Department of the Interior for acquiring the surface rights to these lands would be in the range of $40 to $60 million of newly appropriated monies.

Recognizing that both the Big Cypress National Preserve and Everglades National Park fulfill an important function in preserving the natural sheet flow so vital to the continuing conservation of nationally significant fish, wildlife and other natural resources in southern Florida, we have substantial efforts under way to increase the extent of conservation of these resources.

One of these is acquisition of a new National Wildlife Refuge for the benefit of the endangered Florida panther. This land is known to be the primary center of panther habitat outside of present State or Federal ownership and is approximately 15 miles west of the closest portion of the land covered by this bill. Legislation to define the boundaries of the refuge on a basis agreeable to the landowners and the Department was reported by the Senate Environment and Public Works Committee last year and we have made an offer to the landowners for part of the land, using previously-appropriated funds.

Working closely with the U.S. Army Corps of Engineers, we also have an experiment underway to restore the natural flow of water into Everglades National Park. This appears to be working well, and we are continuing to seek new ways to conserve these resources without substantial increases in budgetary requirements.

Our fundamental problem with S. 90 is that the direct budgetary costs it will impose on the Federal Government are excessive, given the current fiscal conditions. If S. 90 were enacted as introduced, we would incur new monetary obligations comparable to the approximately $52 million appropriation for Park Service land acquisition nationwide in the present fiscal year -- and this for the acquisition of surface rights only.

Enactment of this legislation would represent another obligation which we could not meet. I am compelled to note that there are lands with values possibly over $2 billion presently authorized for inclusion within the Park System or identified for the National Wildlife Refuge system for which funds have not been appropriated.

This is a hugh inventory of authorized and identified properties for possible acquisition of which we are able to acquire only small acreages in any one year. Consequently, we have massive inholdings within the National Park and Refuge Systems resulting in conflicts between the affected landowners and the government, and situations that are often unfair to many of our citizens.

Although we have this enormous backlog in our land acquisition program, we also have the mammoth problems associated with the overall Federal deficit. We just cannot support a measure which in and of itself adds substantially to this backlog -- especially when we have an alternative which provides for greater environmental benefits, doesn't add a dollar to the Federal debt, and generates revenues for other purposes.

S. 90 proposes acquisition of surface rights only in accordance with the approach adopted in the original Big Cypress legislation. There are extensive oil and gas reserves beneath the existing Preserve, and the prospect of additional hydrocarbon discoveries under the Addition as well. Access to the mineral rights must be provided, or we must compensate the owners. The environmentally preferred access routes are from the north, off Alligator Alley, as the Park Service advises me that it would pose significant environmental threats to grant further access from the only other road far to the south.

S. 90 would limit access from Alligator Alley to three points for all uses. If these provisions were enacted and proved inadequate to permit development of the mineral rights, the owners would undoubtedly seek compensation in the courts. I understand that the State of Florida estimates that the value of these mineral rights could exceed $1 billion. This is an extra measure of Federal liability that we absolutely cannot accept.

I would also bring the Committee's attention to the fact that a commission appointed by the Federal Court has recently recommended an award for inholders at Redwoods National Park in the amount of approximately $1 billion for a 1978 legislative expansion of the boundaries to that Park. I would note our 1978 estimates of land acquisition costs associated with that expansion were $359 million, a figure that was criticized as being markedly excessive by some expansion advocates.

Fortunately there is an alternative which will provide all of the environmental benefits of S. 90, offer an extra measure of protection to important wildlife resources, and totally avoid the direct budgetary problems I have previously discussed.

We are in the process of completing negotiation of an agreement, pending finalization of appraisals and routine legal matters, for a land exchange with two Florida corporations. These corporations own a majority of the lands proposed for acquisition by S. 90 as well as other large tracts nearby which are of equal or greater environmental importance. These companies -- Collier Enterprises and Barron Collier Corporation -- would receive Federal lands in Phoenix, Arizona, that are presently used as the site of an Indian school now proposed for closure. The Phoenix property is worth approximately $100 million.

In return, we would receive approximately 115,000 acres of land in Collier County, worth approximately $50 million, plus a cash payment of $50 million to equalize the value of the exchange.

Our intent is to complete and review appraisals of all properties involved in the exchange proposal, and to then move to complete negotiations on final boundaries and values. I am optimistic that a satisfactory agreement can be reached in the near future.

The Collier lands include approximately 70,000 acres of the northern Addition and 15,000 acres of the western boundary strip proposed under S. 90, along with about 30,000 acres which would complete the Florida Panther National Wildlife Refuge and allow us to create a new Ten Thousand Islands National Wildlife Refuge.

There is no need for me to discuss the resource values of the Big Cypress Addition; the Committee will be hearing testimony about this at length today. However, I would like to tell you about the lands under our exchange proposal which would be added to the National Wildlife Refuge System -- lands which are not covered by S. 90.

The Florida Panther NWR lands are to the west of the Preserve. The Florida panther is one of the most critically endangered mammals in the country, with only an estimated 30-50 animals occupying the Everglades-Big Cypress Region of Florida. The three known population centers are the Fakahatchee Strand, the Big Cypress National Preserve, and Everglades National Park. The latter two areas are in Federal ownership and are partly managed for the benefit of the panther. However, parts of Fakahatchee Strand are threatened by development and other unfavorable land use activities.

The Fakahatchee Strand is located in Collier County, at the western end of the Big Cypress swamp. (A strand is a forested watercourse composed of portions of slightly elevated areas interspersed with wetlands). Fakahatchee Strand, one of the larger remaining wilderness-type areas in Florida, is composed of several watercourses, many ponds, and elevated areas containing hammock forest.

The Strand is a subtropical area containing many rare plants, including over 45 species of orchids. Oaks, maples, palms, and various tropical trees form a dense canopy over the area, with a large variety of epiphytes, ferns and shrubs forming a dense understory. Areas with deeper water levels are dominated by cypress, pop ash and pond apple trees. As much as 90% of the area is inundated during the rainy season, with depths ranging from a few inches to three feet.

Wildlife in the area is either water-dependent or water-tolerant as a result. Over 30 species of plants and animals considered rare, threatened or endangered by the State of Florida are found in the area. Nine species are listed as threatened or endangered under the Endangered Species Act: the wood stork, the snail kite, the American alligator, the bald eagle, the Cape Sable seaside sparrow, the red-cockaded woodpecker, the peregrine falcon, the eastern indigo snake, and the Florida panther. There are also extensive populations of wading birds and various species of fish.

The Ten Thousand Islands are located to the south, immediately northwest of Everglades National Park. This area constitutes one of the last, major, relatively primitive island-estuary systems in the United States. It is a unique estuarine area, both in its intricate configuration and its biological production. It is estimated that over 350 plant species are native to the area -- more than are found in any comparably sized area in the United States. Numerous endangered or threatened birds and animals reside here, including bald eagles, great white herons, manatees, woodstorks, green sea and loggerhead turtles, and indigo snakes.

There are also many species of wading and fish-eating birds. The area is one of the most important breeding and rearing grounds for marine fish species. In 1976 the former Bureau of Commercial Fisheries estimated that at least 23 species of major importance in the Gulf of Mexico use the Ten Thousand Islands estuary. An example is the contribution the estuary makes to the production of pink shrimp, many of which are caught on trawling grounds long distances away. Over 1/2 million pounds of commercial shrimp originate here annually. In addition, sport fishing for species such as snook, tarpon and snapper constitutes a major economic activity in this park of Florida.

The islands themselves are largely covered with mangroves, although small beaches exist on many of the seaward islands.

This area is physically located northwest of Everglades National Park, from the Park boundary to Cape Romano. It is subtropical in climate. The islands are barely above sea level, and the elevation inland rises less than one foot per mile.

This area has been under study by the Fish and Wildlife Service and its predecessor agencies for many years, but budgetary priorities have precluded any formal effort at acquisition until now.

The exchange agreement should also largely resolve the issue of access to the retained mineral estate, and thereby virtually ensure that the Federal government will not be exposed to the potential $ 1 billion liability mentioned earlier. The exchange agreement would accomplish this by assuring access to the retained mineral estate provided that reasonable environmental standards are met. It is important to note that oil and gas extraction pursuant to a retained mineral estate presently occurs within the Big Cypress Preserve (i.e. Raccoon Point and Bear Island fields) as expressly permitted by Congress. Under the exchange agreement, environmental protection standards substantially similar to those presently in force within the Preserve would be applied by the exchange agreement to the exchange lands. Access through the Preserve and the Addition from the highway exits to the sites where application for exploration or development activities would be reviewed pursuant to a process similar to that employed in the Atchafalaya National Wildlife Refuge in Louisiana.

This exchange agreement would leave 57,000 acres of land proposed for acquisition by S. 90 in private ownership. We estimate that this land, after payment of severance damages, would be worth approximately $ 20 million. We note that the State of Florida's share of acquisition costs under the formula contained in S. 90 would be slightly over $ 20 million, and that the State has already appropriated this money. We would therefore propose that the State use this money to acquire these remaining lands from present owners and subsequently transfer title to the Department for inclusion in the Preserve.

The land exchange proposal would enable us to make significant additions to both the National Park and National Wildlife Refuge Systems, benefiting both Florida and the Nation, at no direct cost to the federal taxpayer. Furthermore, the exchange would result in $ 50 million of additional revenue to the government which could be used for the benefit of the tribes historically served by the school, as well as furtherance of Departmental programs, or whatever combination of these or other purposes the Congress might direct.

We fully recognize that there must be support from Indian tribes and other interests in Arizona and Florida for the exchange to proceed and be approved. To this end, I am pleased to report that we are making substantial progress. A hearing was held in Phoenix last Friday, February 13, on the quetion of the closure of the Indian school. At that hearing, the Arizona Inter Tribal Council expressed strong concerns over the provision of facilities and services adequate to meet with educational and social needs of Indian children. In light of these concerns, they requested several legislative items, including a requirement that the school remain open until adequate alternative arrangements are made for the students served by the school, provisions for the Inter Tribal council member tribes to benefit financially from the disposition of the school lands, and authority for the Secretary of the Interior to exchange the school lands. Their testimony expressly noted that their agenda would accomodate this exchange proposal.

We strongly agree with their concerns over the welfare of the students served by the school, and at no time have considered any action in connection with the exchange proposal that would be detrimental to those students. Although we have not had an opportunity to examine their specific proposals in detail, we believe there is room within the exchange framework to accomodate all legitimate needs of the Indian peoples presently served by the school.

Similarly, the Mayor of Phoenix testified that although the city had not reached a point where they would now endorse a rapid disposition of the school lands, they do believe that arrangements could be accomplished shortly that would provide a combination of open space and development that would be satisfactory to the city, within the context of the exchange proposal.

The Governor of Arizona supports the exchange, contingent upon the concerns of the city and the Tribes being resolved. He is also exploring the possibility of using the exchange as a means of resolving an Arizona highway problem -- a matter which is entirely local and whose outcome would not affect our overall proposal.

I believe that we are within reach, and in a reasonable time frame, of resolution both of the details of the exchange between the Department and the Collier interests, and of the concerns of the affected parties in Arizona. The outlook is entirely positive, and I am confident we can shortly provide you with detailed proposals for substitute legislation that would authorize the exchange and meet the approval of all of the interested parties.

We realize that there are no costless alternatives to direct purchase of private property--although some means may be less costly. Any means of acquisition must weigh the benefits to be derived against the potential effect on the Federal deficit and on the relative costs of the alternative means of acquisition.

Exchanges in some circumstances represent an attractive alternative to expenditure of appropriated funds for land acquisition, but we must always be cautious and prudent. In some cases, the combination of tax implications and administrative costs would make exchanges more expensive than a combination of sale and purchase of the affected lands. We must also be aware of the continuing Federal costs for protection, development of facilities and operation of the acquired lands; and of the relative costs between holding the acquired lands and those being exchanged. We are persuaded that this is the best approach in this case because the Phoenix property could probably not be sold to raise cash for the proposed acquisition. Some increases in operational costs are likely to occur because of the added land area, and the establishment of new units.

Inasmuch as the funds which might result from a public sale of the Phoenix property, and indeed the possibility of such a sale, are speculative at best, we are persuaded that the exchange proposal represents a better opportunity for the taxpayers, and constitutes a far more valuable addition to the public estate from an environmental standpoint than S. 90 or its companion House bill.

We would accordingly request that the Committee amend S. 90 to provide for implementation of our exchange proposal. We expect to have it finalized shortly and will be pleased to work with you to develop the necessary legislative language.

Senator BINGAMAN. I gather we will have some questions for the record. I do not have any at this point.

Do you have any, Senator Domenici?

Senator DOMENICI. Well, just one that probably applies to our bill, too, so I will just ask it.

One of the problems with the exchange concept, Mr. Secretary, is time, and while this is not my legislation, are you saying that you can accomplish the exchanges that you referred to in the Florida Senator's bill rapidly, and if so what does that mean?

Mr. HORN. Based on the work we have done, I expect to have an agreement basically with the private landowners completed, as I said, within four to six weeks which we could then share with the Congress, and we have been working very closely with the interests in Arizona to resolve their concerns, it is my expectation within a very short time frame, let us say two to three months at the outset, we could have the entire complex exchange resolved which would permit it to be folded into S. 90 so that we could acquire not only the lands in S. 90, the additional refuge lands, generate $50 million and not tap the Treasury. I think that that is a range of benefits that is probably worth waiting 60 days for.

Senator DOMENICI. Thank you, Mr. Chairman. Thank you very much.

Senator BINGAMAN. All right. Maybe you could go forward with whatever testimony you have on S. 56, and we will then have some questions on that.

STATEMENT OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR ON S. 56

Mr. HORN. Thank you, Mr. Chairman. It is a pleasure to appear here today to discuss S. 56, a bill to establish the El Malpais National Monument, the Masau Trail Wilderness, and the Grants National Conservation Area in the State of New Mexico.

We can support S. 56 but only if it is modified to address the concerns I will discuss in my testimony today, and I would like to basically present a shortened form of this statement.

The El Malpais has been studied by both the National Park Service and the Bureau of Land Management, and both agencies agree that El Malpais contains qualities which qualify parts of it for wilderness and/or monument status. However, the formal study and review process for wilderness designation has not yet been completed, and we believe that this Congressionally mandated process should be allowed to work.

Nonetheless, we fully appreciate the level of interest in esablishing a conservation-based unit in this area, but we remain concerned about the impacts of S. 56 on issues related to wilderness designation, costs, water rights, mineral rights, Indian tribal lands, and grazing, and we urge that S. 56 be modified to address these particular concerns.

Our objective is to reach an amicable resolution of these matters so that we can effectively manage and conserve the resources of El Malpais and the surrounding areas in a manner which protects the interests of the American taxpayer, and we believe that we can work with this Committee and members of the New Mexico delegation to arrive at a proposal which will allow us to manage, preserve, and promote the area in the most efficient, appropriate manner.

We are concerned that proper land management decisions be made for this area, and at the same time we are concerned that costs not be higher than they need be to accomplish appropriate objectives. Additionally, we are concerned about adding to the substantial private land inholdings already within the units of the National Park System that may ultimately be acquired.

From our review, it appears that S. 56 would establish a monument configuration which includes acreage that is excess to the amount necessary to achieve resource consideration objectives. Some of these lands are under the jurisdiction of the Forest Service and others are in private ownership. We do not believe it is necessary to incur the cost of acquiring all of the privately owned lands, which is estimated to be $14.5 million. We are also concerned with the long-term cost of operating an area of this size. However, the precise amount of such costs will be determined as a result of the planning process and what eventually gets enacted into law.

We believe that including all of the private lands is unfair since there is no assurance when they will get timely compensation for their property given the deficit reduction objectives I talked about previously. To minimize such problems, we would like to work with the delegation to redefine the proposed boundary of the national monument to ensure that the appropriate resources are included within the boundary while at the same time minimizing the potential conflict with individuals who depend on the current multiple use management of this acreage. For inholdings that may remain, we would work with the owners to provide models of public and private cooperation, and National Park Service Director Mott has suggested that such cooperation could include working with owners in the area to provide interpretive programs related to current activities, including grazing.

Another measure to mitigate costs is our proposal that language be included in S. 56 that land exchanges would be the preferred alternative to appropriated funds for any necessary land acquisition. In addition, we would like to see language which would allow us to exchange lands across State lines, which we think will enormously facilitate the speed at which exchanges could be consummated. We will be recommending amendatory language to you to achieve these objectives.

We also have concerns regarding the cost to implement the proposal for two visitor interpretive facilities, one to be located within the monument and one to be located in or near Grants, New Mexico. We are confident that one visitor interpretive center near Grants can serve the purposes of this legislation. We therefore suggest that a single interagency orientation center would meet the needs of the visitors and provide appropriate multiagency representation. Further, we believe that the State of New Mexico should be an active participant and a partner in this effort.

With regard to BLM wilderness designations, we remain convinced that piecemeal wilderness considerations should not be continued. Consequently, we think the designation of the four wilderness study areas as wilderness in the bill is premature and that the process I referred to earlier should be allowed to continue and work its way out.

With regard to the boundaries of the proposed national conservation area, we suggest that several portions of it should be deleted from the bill as noted in my prepared statement, and once again BLM is prepared to work closely with the Committee and the members of the delegation to outline those specific types of proposals.

Regarding the impact of S. 56 on Indian tribes, we have two comments, one of which I will note here. In 1977 the Pueblo of Acoma purchased approximately 3,900 acres of land, referred to as the Berry Hill Ranch. These lands were taken into trust for the pueblo at the time of acquisition and later declared to be part of the Acoma reservation by Secretarial proclamation in 1981.

Approximately 800 acres of these reservation lands lie within proposed monument boundaries. Similarly, the purchase of the Berry Hill Ranch included the purchase of grazing allotments held by the ranch, and approximately 9,600 acres of these grazing allotments lie within the proposed monument and would be subject to termination under terms of the proposed Act. The above areas all lie on the eastern boundary of the proposed monument. Accordingly, a comparatively minor adjustment in the proposed boundaries of the monument could be made eliminating the conflict between the public interest and the government's trust responsibility to the tribe.

Accordingly, we recommend that such a boundary adjustment be made excluding all lands and grazing allotments owned by the Acoma from the national monument.

As to Federal reserved water rights, they are inferred by courts whenever Congress establishes new national monuments. Rather than relying on the courts to discern Congressional intent, we strongly urge Congress to specify what water rights will be set aside attendant to creation of this monument. The Department appreciates the sensitivity of western water issues and believes these issues should be addressed affirmatively in this legislation.

Finally, I would like to address the designation of the Masau Trail section of the bill. The purpose of the trail is to introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico, and to present a complete picture of regional Indian culture. While we estimate the cost of planning the appropriate route to be approximately $100,000, we believe appropriate signing could be accomplished through the use of existing State funds and the trail itself could be promoted through the multiagency Interstate 40 visitor and interpretive center near Grants.

Once again the department is prepared to work closely with the Committee and the New Mexico delegation to develop legislation which we can support to ensure the most cost-effective approach to provide for the conservation of the El Malpais area and its unique resources.

Mr. Chairman, that concludes my statement, and I and the other panel members here with me would be pleased to answer any questions you may have.

[The prepared statement of Mr. Horn on S. 56 follows:]

STATEMENT OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES CONCERNING S. 56, A BILL TO ESTABLISH THE EL MALPAIS NATIONAL MONUMENT, THE MASAU TRAIL, AND THE GRANTS NATIONAL CONSERVATION AREA IN THE STATE OF NEW MEXICO, AND FOR OTHER PURPOSES.

FEBRUARY 19, 1987

Mr. Chairman and Members of the Committee, it is a pleasure to appear before you today to discuss S. 56, a bill to establish the El Malpais National Monument, the Masau Trail, wilderness and the Grants National Conservation Area in the State of New Mexico.

We can support S. 56, but only if it is modified to reflect the recommendations I will discuss in my testimony today.

The El Malpais has been studied by both the National Park Service (NPS) and the Bureau of Land Management (BLM); and both agencies agree that El Malpais contains qualities which qualify parts of it for wilderness, and/or monument status. However, the formal study and review process for wilderness designation has not been completed. Recommendations as to wilderness suitability as required by Section 103 of the Federal Land Policy and Management Act have not yet been made to the Secretary. The Secretary, in turn, will make a final Departmental recommendation to the President who will forward his Statewide recommendations to Congress for action. We believe this Congressionally mandated process should be allowed to work.

We fully appreciate the level of interest in establishing a conservation-based unit in this area. However, we remain concerned about the impacts of S. 56 on issues related to dual management, wilderness designation, costs, water rights, mineral rights, Indian tribes, and grazing. We urge that S. 56 be amended to address these concerns.

Our objective is to reach an amicable resolution of the issues before us which will ensure that we can manage and protect the resources of El Malpais and surrounding areas for generations to come and do so in a manner which protects the interests of the American taxpayer. We believe that we can work with this Committee and members of the New Mexico delegation to arrive at a proposal which will allow us to manage, preserve, and promote the area in the most efficient, appropriate manner.

If enacted, S. 56 would provide for the establishment of a 127,818-acre El Malpais National Monument under the jurisdiction of the National Park Service, establish a 253,000-acre Grants National Conservation Area under the jurisdiction of the Bureau of Land Management, and designate 115,000 acres as wilderness under the jurisdiction of the Bureau of Land Management. Further, the Secretary of the Interior would be authorized to designate a vehicular route along public roads known as the "Masau Trail" that identifies certain significant sites of antiquity in western New Mexico, including El Morro National

Monument, Chaco Culture National Historical Park, Aztec Ruins National Monument, and Canyon De Chelly National Monument. Additional segments of the trail, leading to sites protected by Federal, State, or local governments, Indian tribes, or nonprofit entities, may be added from time to time under a cooperative agreement. Coordinated management plans for both the monument and the conservation area are required within 2 years from the date of enactment, which shall include:

(1) Implementation plans for a continuing program of interpretation and public education about the resources and values of the two areas;

(2) Public facilities, including a visitor center at or near Bandera Crater, as well as a multiagency orientation center at or near Grants, New Mexico, and adjacent to Interstate 40;

(3) Natural and cultural resources management plans for the two areas; and,

(4) A wilderness study of national monument lands.

We are concerned that proper land management decisions be made for this area. At the same time, we are concerned that the costs not be higher than they need to be to accomplish appropriate management and conservation of the area's resources. Additionally, we are concerned about adding to the substantial private land inholdings already within units of the National Park System that may ultimately be acquired. From our review, it appears that S. 56 would establish a monument configuration which includes considerable acreage that is excess to the amount necessary to achieve resource conservation objectives. Some of these lands are under the jurisdiction of the Forest Service and others are in private ownership. We do not believe it is necessary to incur the cost of acquiring the privately owned lands, which is estimated to be $14.5 million. We are also concerned with the long-term cost of operating an area of this size; however, the precise amount of such costs will be determined as a result of the planning process.

We believe that including all of the private lands is unfair to the owners since there is no assurance when they will get timely compensation for their property. To minimize such problems, we are willing to work with the delegation to redefine the proposed boundary of the national monument to ensure that the appropriate resources are included within the boundary while at the same time minimizing the potential conflict with individuals who depend on the current multiple-use management of this acreage. For inholdings that may remain, we would work with owners to provide model of public and private cooperation. Such cooperation could, for example, include working with the owners of the Bandera Ice

Cave and other local private landowners to provide interpretive programs for their current activities, including grazing. For example, the Pueblo of Acoma tribe now has 9,600 acres of grazing allotments within the proposed management area.

We also believe the requirement that the Department conduct a wilderness study of the national monument lands is unnecessary. BLM has completed its study of this area and an additional study would be duplicative. Furthermore, the NPS general management planning process will help determine the varying types and levels of use or protection for monument lands. Therefore, we recommend that you delete this wilderness study provision.

Another measure to mitigate the cost issue is our proposal that language be included in S. 56 that land exchanges would be the preferred alternative to appropriated funds for any necessary land acquisition. In addition, we would like to see language to allow exchanges across State boundaries. Section 1302 of the ANILCA provides the type of language which I believe would be most useful, and we will recommend amendatory language for S. 56 to achieve the same end.

We also have concerns regarding the cost to implement the proposal for two visitor/interpretive facilities; one to be located within the national monument boundary and one to be located in or near Grants, New Mexico. We are confident that one visitor/interpretive center near Grants can serve the purposes of this legislation. The facility proposed for Interstate 40, which is just a few miles from the El Malpais, can contain information on both the El Malpais area as well as the Masau Trail. We, therefore, suggest that a single interagency orientation center would meet the needs of visitors to the area and provide appropriate multiagency representation. Further, we believe that the State of New Mexico should participate as a partner in this effort.

Another concern with S. 56 is the expansion of Departmental bureau presence in the area. Multiple bureau involvement will increase the costs without commensurate public benefits. The Committee should be aware that simply having the National Park Service present to manage a national monument will not ensure increased visitation or tourism. We believe the area will attract visitors regardless of the primary managing agency, especially with an effective State and local promotional campaign designed to attract tourists. This is perhaps the ultimate key to growth of tourism.

With regard to the designation of BLM wilderness as proposed in the bill, we testified last year that the study process had not been completed on the entire area. We testified that the legislation was premature, and we believed the wilderness proposal should be considered only in the context of an analysis of the entire State of New Mexico. We remain convinced that piecemeal wilderness consideration should not be continued. Since last year's hearing in the House, the draft Environmental Impact Statement on the Statewide wilderness program has been published and the public comment process has been completed. Included in that document are recommendations for favorable designation of the four WSA's located east of Highway 117. Just 2 weeks ago, we were notified that an owner of subsurface mineral rights had discovered information which leads the owner to believe that there is a significant coal seam throughout the WSA's. Because of this, we think designation of the four WSA's as wilderness is premature until the issue of mineral evaluation is resolved. The Bureau of Mines and the U.S. Geological Survey are scheduled to begin mineral surveys this summer at the request of BLM. Upon resolution, the four areas could then be addressed in a Statewide wilderness package. To do otherwise would be a disservice to the decisionmakers in this process because we do not know the true potential cost; both the potential loss of coal as well as the potential purchase or exchange cost of this legislation.

With regard to the boundaries of the proposed National Conservation Area, we suggest that several areas should be deleted from this bill, including the "upper neck" of the BLM ISA which runs to Interstate 40 on the northeast side of the proposed monument. The characteristics of this area do not enhance the overall quality of the area proposed to be included in the national conservation area. This could eliminate major areas of private land. There are several other minor boundary changes that we are prepared to suggest in working with the delegation. These adjustments, along with our continuing effort to ascertain the amount and location of any coal resources, will help eliminate the need for unnecessary land and mineral exchanges and would assist in better management of the areas.

Regarding the impact of S. 56 on Indian tribes, we have two comments. First, we note that in 1977, the Pueblo of Acoma purchased approximately 3,900 acres of land referred to as the Berryhill Ranch. These lands were taken into trust for the Pueblo at the time of acquisition and later declared to be part of the Acoma Reservation by Secretarial proclamation in 1981. Approximately 800 acres of these reservation lands lie within the proposed monument boundaries. Similarly, the purchase of Berryhill Ranch included the purchase of grazing allotments held by the ranch and approximately 9,600 acres of these grazing allotments lie within the proposed monument and would be subject to termination under terms of the proposed act.

The above noted areas all lie on the eastern boundary of the proposed monument. Accordingly, a comparatively minor adjustment in the proposed boundaries of the monument could be made; eliminating the conflict between the public interest and the

Government's trust responsibility to the Pueblo of Acoma. Accordingly, we recommend that such a boundary adjustment be made excluding all lands and grazing allotments owned by the Pueblo of Acoma from the national monument.

Second, there is one Navajo allotment within the proposed monument. We recommend that the Senate exclude the allotment from the proposed monument.

As to Federal reserved water rights, they are inferred by courts whenever Congress establishes new national monuments. The existence of reserved water rights in wilderness areas, however, is currently under litigation. Consequently, rather than relying on the courts to discern Congressional intent, we strongly urge Congress to specify what water rights will be set aside. The Department appreciates the sensitivity of Western water issues, and believes these issues should be addressed affirmatively in this legislation.

Finally, I would like to address the designation of the Masau Trail section of the legislation. The purpose of the Trail is to introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico and to present a complete picture of the regional Indian culture. This legislation would establish a cooperative effort between local, State, and Federal agencies to facilitate the linkage of a number of historic and cultural sites throughout northwestern New Mexico.

By establishing this conceptual Trail approach, we can provide a multitude of experiences for visitors, students, and scholars. While we estimate the cost of planning the appropriate route to be approximately $100,000, we believe that appropriate signing could be accomplished through the use of existing State funds. The Trail itself would be promoted through the multiagency Interstate 40 visitor and interpretive center near Grants. The ancient ones who belonged to the Anasazi civilization that populated the Four Corners area did not recognize current State borders. I believe the concept of the Masau Trail is the real key to this legislation and presents everyone involved in this matter with a great opportunity.

Once again, the Department is prepared to work with the delegation on the points made in this statement to develop legislation which we can support to ensure the most efficient, cost effective approach to provide for the protection and preservation of the El Malpais and surrounding areas.

That concludes my prepared statement, Mr. Chairman. I would be happy to respond to any questions that you or other members of the Committee may have.

Senator Bingaman. Let me ask just a few questions if I could, Mr. Horn. Then I am sure Senator Domenici has some also.

It is my understanding that the proposal before us, in most of its detail, was really a proposal that had been approved or at least reviewed, and I thought approved, by the staff at the Park Service.

I know Director Mott visited the area at the invitation of Senator Domenici, and Congressman Richardson and myself had thought that his input on this had been largely accepted in this legislation.

Am I now to understand that he is not in agreement, or the Administration is not in agreement with what we have proposed here?

Mr. Horn. I think the point is that when we came back and the Director talked to myself and the secretary, that we have more interests in this area than just those of the National Park Service. We obviously also must include the Assistant Secretary for Indian Affairs, we have the BLM presence noted earlier, there is the water rights question, and I think when you look at all of the interests that the Department has in this area, obviously if the Park Service were a totally independent player, and we didn't have to worry about our tribal responsibilities and our FLPMA responsibilities, we might be taking a different course of action.

What we're trying to seek here is an appropriate balance among all the objectives that the Department has to work toward.

Senator Bingaman. You indicate that the proposal contemplates acquiring too much land, in your view. It is my understanding that there are significant amounts of the land that have already been identified by the BLM for acquisitions or exchange in this Rio Puerco resource management plan, and that that was going forward regardless of what happens on this legislation.

What is your response to that? Is there really this much additional land that is contemplated here that was not already contemplated under that resource management plan?

Mr. Horn. I will offer one overall comment and then ask Mr. O'Neal to respond to the specifics of what BLM is engaged in. I think our concern is that we configure a boundary that will protect the resources and minimize conflicts and minimize the amount of land that we do need to acquire. I think that is something we want to work with you to try to do it with very, very crafted care, to make sure that we do not get ourselves into difficult areas.

Then if we do have private lands that ought to be part of the monument, we have asked, for budgetary purposes, that we work with you to develop exchange authority so we don't have to tap the treasury.

In terms of what exchanges BLM may be engaged in, let me ask Mr. O'Neal to respond to that.

Mr. O'Neal. My understanding, Mr. Chairman, is that the exchanges have been going on concerning the lava for almost ten years. My understanding is that that continues, and I think most of the properties have been exchanged down.

Senator Bingaman. If that is the case, then I am unclear as to what the department's concern is about additional cost of land acquisition being included in this bill, if you are going forward with the exchanges of most of this land at any rate.

Mr. O'Neal. For example, Mr. Chairman, I do not believe initially the Ice Caves, and I am talking off the top of my head now, I do not believe the Ice Caves, for example, in the northern part of this district were contemplated by BLM for Federal protection. I think that was something that the Park Service was looking at.

Senator Bingaman. So was that the one area that the BLM was not looking at to exchange?

Mr. O'Neal. That was my understanding.

Senator Bingaman. Do you think the Park Service was?

Mr. O'Neal. I do not know if the Forest Service was. I think the Park Service, when Mr. Mott went out on that trip he made, showed interest there. That is my understanding.

Senator Bingaman. Let me ask about the question of this piecemeal designation. My understanding is that this instant study area, the El Malpais instant study area, was really required by law to be reported to Congress by 1980, in 1980. There has been about a seven-year delay in that, but you are still suggesting to us that it would be premature for us to go forward on the designation of these wilderness areas.

I am a little confused as to why it would be premature seven years after we mandated that it be done.

Mr. O'Neal. Mr. Chairman, my understanding is that the four wilderness study areas, I believe located in the southeast part of this area, are to be looked at this summer by the U.S. Geological Survey and the Bureau of Mines as far as the mineral assessments that must be done before we make the presentation to the Secretary by, I believe, the early 1990's.

Everything seemed to be going pretty smoothly, as I understand it, until there was an announcement that there were potential coal deposits there. So now it is extremely important that we do have those mineral assessments done by the Bureau of Mines. And that is to be done, as I understand it, this summer.

Senator Bingaman. Now how does that fit in? As I understand it, the BLM has completed a draft EIS on all of these areas, and recommends them for designation as wilderness. You are suggesting that that is not complete?

Mr. O'Neal. The draft EIS was completed some time ago. My understanding is they have not gone forward with the final, pending all of the exchanges taking place in that area.

Senator Bingaman. What is it that will happen this summer?

Mr. O'Neal. Well, that is for the mineral assessments of those four wilderness study areas in the southeastern part of this area we are talking about.

Senator Bingaman. But that was something that was not done before the EIS draft was complete?

Mr. O'Neal. That's my understanding.

Senator Bingaman. Let me defer to Senator Domenici to ask a few questions, and then I may have another here.

Senator Domenici. Thank you very much, Mr. Chairman. I have a lot of questions, but I am just wondering if I might just ask a few lead ones.

We do have access to these witnesses on a regular basis, and I am just worried about your time and mine and the other witnesses, so I am going to probably submit eight or ten to you all. But let me just go through a few.

As I understand it, other than the Candaleria property, which is the so-called Ice Caves, that is recommended of late, after the visit to the area by Director Mott and the development of the notion of National Park Service involvement. The National Park people thought that if you are going to have that, and they recommended that the National Park Service be involved in the monument management, that the Ice Caves be involved.

So I would understand that heretofore you have not had that in any of your evaluations. But as to most of the remaining land, it is true, is it not, that you had evaluated how much that would cost for exchange and acquisition. And we were talking about four and a half to five million dollars just last year. I think that is the case.

Mr. HORN. The number that was reported to us after looking at the boundary was in the vicinity of fourteen to fifteen million dollars. I think that you have the authorization language in the measure.

Our concern was that, regardless of what the ultimate number is, we work with you to put together that configuration that keeps that to the minimum, and then we basically try to deal with those through the exchange process. I am not sure that until we do appraisals and put together the plans exactly which parcels we would want to acquire, on which ones would an easement be sufficient, and where could we run an interpretive exercise that would permit us not to necessarily purchase, but get the type of protection we want through a cooperative venture with the landowners.

Senator DOMENICI. Therefore, as you indicated to me before when we met on this issue, even though there is a preliminary estimate of fourteen and a half, the principal proposal and proposition you were making is that we give you the flexibility to acquire by exchange, so that whatever that price tag is, it would be minimized. Is that essentially what you are asking us to do?

Mr. O'NEAL. Yes, sir.

Senator DOMENICI. I personally do not think we have an objection to giving you exchange capability. I do not know the ramifications of interstate exchanges, but I do not see any reason for that.

Now some of the owners do not want land, they want to be bought out. I assume therefore you can expedite these kind of exchanges where the owner of new land could immediately sell, and it would not take a long time to accomplish the intervening acts?

Mr. HORN. I think that is the reason we have asked for, and will work with you to develop, some specific exchange authority for this measure. If we are required to go through the normal FLPMA exchange process, that has proven to be quite time-consuming.

We have had other instances, both specifically and in other States, where we have been given broader degree of discretion in terms of facilitating land exchanges, and we have been able to turn them around very rapidly in those cases.

Senator DOMENICI. I will just take two more issues, then I will yield back to the Chairman.

Now on the mineral estate issue, as I recall this there really are only two entities with significant mineral interests. Let us take the

Santa Fe first. That is one. We have been hearing about that interest for a long time.

Is it now the department's testimony that in spite of the impact statements, albeit not completed, but the preliminary impact statements, in spite of the recommendation that it be wilderness, which is an official position, that now there is still a concern about the size of the mineral estate, its value, and that kind of thing? At this late date, there is a new concern different from what we had all along?

Mr. O'NEAL. This is the concern, sir, with those four wilderness study areas as I understand it. There are other wilderness areas that have not changed, but these are the four wilderness study areas, I believe, Rimrock, I cannot come up with those four names, but those down in the south.

Senator BINGAMAN. Rim Rock, Sand Canyon, Little Rimrock and Piñon?

Mr. O'NEAL. I believe those are the ones in the southeastern part of the proposal.

Senator DOMENICI. Let me tell you what I know about it. I am not speaking for the Santa Fe in advance of their testimony, but it appeared to me that, unless something has changed, their position heretofore has been that they want to arrive at an expeditious system of swapping out their interest. But there never was a contention that this was a gigantic new coal find. We will get that from them when they testify here.

You are willing to help us expedite a trade-out with reference to their interest, are you not, in this legislation?

Mr. O'NEAL. Yes, we are.

Senator DOMENICI. You have been in the process of negotiating out the other mineral interest. What is the name of that one? New Mexico-Arizona Land Company claims some mineral rights.

Mr. O'NEAL. I am not that familiar with that part, Mr. Chairman.

Senator DOMENICI. I think that has been in the process of exchange for a long time, and I assume that is going to get worked out.

Water. And then the Indian claims, and then I will yield.

Water. We understand there is an ongoing battle, when you take land and make it wilderness, what happens to reserved water rights? That has not been resolved. Some say you should clarify it, others say you should let the courts interpret it. Let me tell you what we know about this plan.

The engineer who controls water and is the expert says there are no appreciable water rights around. None. Now are we going to get into a full-blown battle over language about reservation, even if there is a statement in the legislation that there are none?

Mr. HORN. I think it is something that we can work with you very carefully on. What we have been concerned about is that, whenever we deal with the creation of new units and wilderness areas, where Congress does not speak clearly on these issues, we are left to try to discern what the intent is, or work our way through the courts, with all sorts of, in many cases, conflicting directions. Rather than create a cloud of uncertainty, that has an adverse impact on lots of potential holders of water rights, our general preference is to try to get these items cleared up.

Now if in this area we are dealing with a de minimus practical problem, I think it is going to be a lot easier to resolve than it would be if we were dealing in some area where we had an awful lot of appropriated rights. I think practically, if we have got minimal water issues it is going to be a lot easier to solve it than it would be if we had an awful lot of contention.

Senator Domenici. Well, Mr. Chairman, I just want to say in front of the Administration witnesses, I clearly hope our bill does not get entangled in that kind of issue if as a matter of fact there is a finding that there are little or no water rights. It seems to me we do not want to make a precedent, we do not have to, when there is no issue. I hope we can work together on that.

You say one visitors center is sufficient, but basically when we discussed this issue with the director of the Park Service, and I understand that he has to clear on through the hierarchy, we clearly understood there are two distinct objectives in this legislation.

One is a small visitors center for the El Malpais itself focusing and centering at the Ice Caves site. And the other is part of a large, regional series of places that tourists would visit, coming out of a Masau Trail center. That is our concept, and I assume you do not argue with the concept, you merely contend that we ought to do it in one place instead of two. Is that correct?

Mr. Horn. After the director and I discussed this, I think the concern is that, one, for cost purposes we try to limit it to one multi-agency center near Grants, with the State as a participant. And then obviously we are going to have to have some type of visitor facilities of some sort to deal with interpretation of what the visitor comes to see at a newly established monument.

And I think obviously there we would be working to establish an appropriate level of interpretive type facilities. It may not raise itself all the way up to a full-bore, what you might want to call grade-A visitors center. It might be some smaller level of interpretive services that we could provide at some appropriate cost level.

Those are the types of things that we need to look closely at the management of to figure out exactly what the costs are. But in terms of one large visitors structure in which we make a substantial investment, I think there we would be looking at one multiple agency center with the State as a partner with us.

Senator Domenici. As representative of the Indian interest, you have made that as one of the four or five points. Aside from religious freedom type activities, which are protected in this bill by reference to the American Indian Religious Act, how much land are we talking about? It is six or seven or eight hundred acres, is it not?

Mr. Horn. It is my understanding that it is about six hundred acres of reservation lands lie within the proposed monument boundaries, and we would just as soon not have to deal with an overlap of an Indian reservation and a National Park Service unit. I think that just raises some problems that we do not necessarily want to face.

And then we have the related question about when they purchased the Berry Hill Ranch, there were some grazing allotments that went with that on about another nine thousand acres of lands affected by the monument. And either that can be dealt with with a boundary configuration change, or if the determination is not to change the boundary, which is generally our first preference, some other interim management arrangement or some permanent management arrangement to deal with the different interests involved.

Senator **Domenici**. I believe that we have received a copy from the New Mexico State engineer, Senator Bingaman, regarding the water availability. And I would ask your permission that we make it part of the record.

Senator **Bingaman**. It will be a part of the record.

[The information referred to follows:]

WATER AVAILABILITY AND USE IN THE PROPOSED EL MALPAIS NATIONAL MONUMENT AND GRANTS CONSERVATION AREA

By

Bill Fleming and Tom Morrison

NEW MEXICO STATE ENGINEER OFFICE

Report TDH-87-1
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I. INTRODUCTION

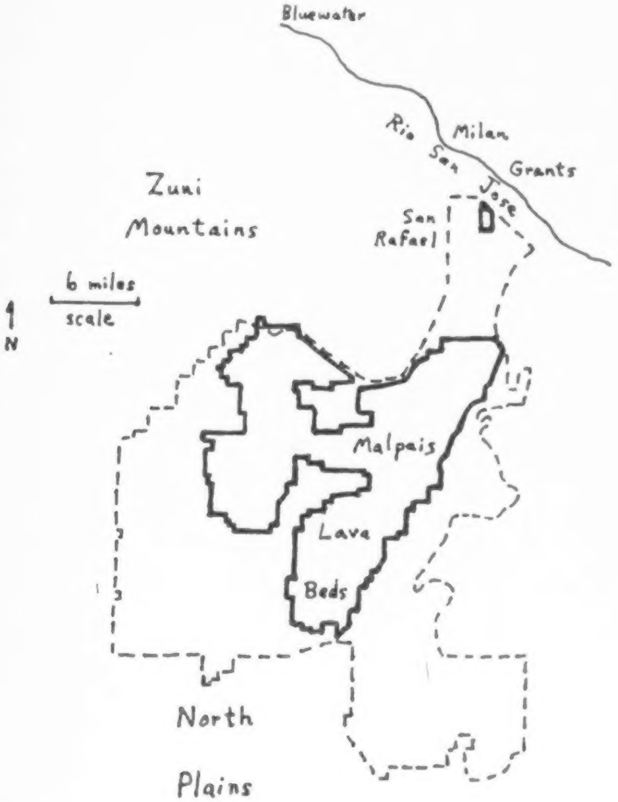
The El Malpais National Monument and surrounding Grants Conservation Area have been proposed for national designation. As part of a survey of existing resources and uses, this report assesses the surface and groundwater resources and summarizes water rights information for the area.

South and west of Grants, the proposed El Malpais National Monument comprises an area of 126,194 acres, surrounded by a proposed Grants Conservation Area about twice as large (Figure 1). With the exception of a small section in the northwest, the area lies on the east side of the Continental Divide, mostly in a closed basin known physiographically as the North Plains and the Malpais Lava Beds. Bounded on the north by the Rio San Jose valley and the Zuni Mountains, the broad lava beds extend southwesterly from Grants. A small section of the southeast part of the larger conservation area lies in the Rio San Jose drainage, as well as a small section of the northeast part. The northern portion of the study area is within the Bluewater Groundwater Basin with the southern portion within the Rio Grande Groundwater Basin.

Figure 1. Location Map: Proposed El Malpais National Monument and Grants Conservation Area

- - - Conservation Area boundary

——— Monument boundary


Bluewater
Rio San Jose
Milan
Grants
Zuni Mountains
San Rafael
6 miles
scale
N
Malpais
Lava
Beds
North
Plains

II. OBJECTIVES

The objectives of this survey are the following: 1) to qualitatively assess the surface and groundwater resources of the proposed El Malpais National Monument and Grants Conservation Area; and 2) to summarize water rights information for both areas.

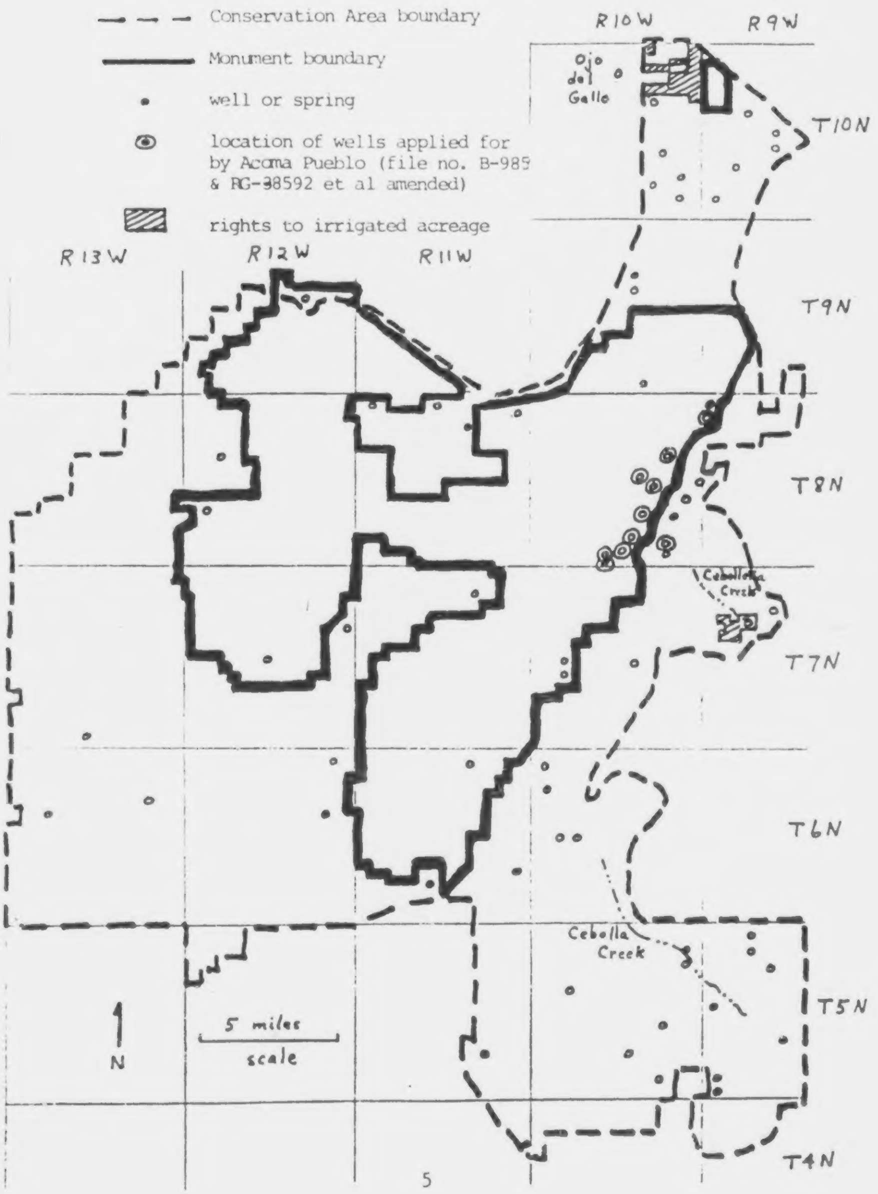
III. SURFACE WATER RESOURCES

Hydrologically, most of the area is a closed basin, with no outflow of surface water. With the exception of a few short stream reaches near springs, all stream channels are ephemeral, with flow resulting from short-duration storms.

The largest ephemeral stream is Cebolla Creek, in the eastern part of the conservation area (Figure 2). The creek has carved a significant channel through the sandstone of the "Rimrock" area, and then is covered by lava near the boundary with the monument. A smaller stream, Cebolleta Creek, is perennial for less than a mile from its spring source near Cebolleta Mesa, and then becomes ephemeral and loses surface expression in the lava of the Malpais. Cebolleta Spring is the source of water for rights to irrigate 280 acres in the conservation area.

The Ojo del Gallo, a spring near San Rafael and outside of the monument and conservation areas, is the source of water for rights to irrigate about 1,600 acres within the conservation area (Figure 2). Three small springs in the southeast part of the conservation area supply stock needs.

Figure 2. Wells, Springs and Water Rights for Irrigated Acreage in the Proposed El Malpais National Monument and Grants Conservation Area


Conservation Area boundary
Monument boundary
well or spring
location of wells applied for by Acoma Pueblo (file no. B-989 & RG-38592 et al amended)
rights to irrigated acreage
R10W
R9W
R13W
R12W
R11W
Ojo del Gallo
T10N
T9N
T8N
T7N
T6N
T5N
T4N
Cebolleta Creek
Cebolla Creek
5 miles
scale
N

IV. GROUNDWATER RESOURCES

A review of available information indicates that limited geohydrologic data exist for the proposed conservation area. Most wells are for domestic and stock use, capable of providing only relatively small quantities of ground water. Because of these data limitations, the extent to which ground water may be available is uncertain.

Several possible sources of groundwater supply exist, including alluvium and basalt flows used for shallow wells in the northeastern part of the conservation area. Gordon (1961) indicates that the lower portion of the alluvium is the most permeable and that several shallow wells have been drilled through the basalt to the lower alluvium to achieve adequate groundwater supplies. While the basalt appears to be sufficiently fractured to act as an aquifer, it was dry where penetrated by several wells. The maximum thickness of basalt is reported by Gordon to be 197 feet in the northern part of the conservation area. The alluvium and basalt aquifer typically yields adequate supplies for domestic and stock use. A review of State Engineer Office files indicates that some wells may not be able to obtain ground water from the alluvium and basalt in all areas covered by the lava beds.

Consolidated sedimentary rocks beneath the alluvium and basalt are known to yield limited amounts of ground water for stock and domestic use. The principal aquifer in the northern half of the conservation area is the San Andres-Glorieta aquifer, composed of limestone and sandstone of Permian age (Cooper and West, 1967). Several wells were drilled to depths up to 500 feet in the San Andres-Glorieta. While the San Andres-Glorieta is a major aquifer north of the conservation area, yielding quantities of water from 500 to more than 2,000 gallons per minute (gpm) in the Grants-Bluewater area, yields are probably much lower in the conservation area. The San Andres may be present in the southern half of the conservation area, but at increasingly greater depths and with lesser yields as distances from the northern boundary increase.

The Chinle Formation, consisting of sandstones, siltstones and mudstones of Triassic age, may yield limited quantities of ground water in the northwest part of the conservation area. One well was drilled to 500 feet in the Chinle for domestic and stock use.

Limited quantities of ground water may be available from portions of the Zuni Sandstone of Jurassic age and the Dakota Sandstone of Cretaceous age. Several domestic and stock wells in the eastern and southern part of the area obtain water from the Dakota and Zuni Sandstones at depths up to 500 feet.

The Gallup Sandstone and Crevasse Canyon Formation of Cretaceous age yield water for domestic and stock use in the southeast corner of the conservation area, where wells are up to 190 feet deep.

V. WATER RIGHTS

A survey of water rights on file in the State Engineer Office was conducted for surface and ground water*. Groundwater information is from water rights files for wells drilled after the extension of the Bluewater and Rio Grande Groundwater Basins on May 14, 1976, and from U.S. Geological Survey records of wells and springs in Cibola County for wells drilled prior to this time. Because the pre-basin wells were inventoried by field surveys, the information may not be complete. Surface water information is from files on water rights to irrigated acreage within the boundaries.

Available information indicates that there are at least 58 wells and springs and 10 pending water right applications within the conservation area (Table 1 and Figure 2). Of the the 68 wells, springs and pending applications, 18 are located within the boundary of the monument. While the majority of the wells are shallow ones for stock and domestic use, 10 of the 68 are proposed by the applications filed in 1984 by the Acoma Pueblo for ground water from the San Andres-Glorieta aquifer**. The water would be used by the pueblo for irrigation, stock, domestic and industrial purposes.

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*Surface water information was supplied by Kent Breese and groundwater information by Charles Wohlenberg, both of the Water Rights Division of the State Engineer Office.

**The Pueblo has applied to withdraw 20,000 acre-feet from 30 wells, 10 of which are located within the conservation area. Distribution of pumpage among the 30 wells is not specified.

The applications have been protested and consideration of the applications awaits the completion of a groundwater study by the U.S. Geological Survey. Nine of the 10 Acoma applications are located within the boundary of the proposed monument.

Surface water from Ojo del Gallo, a spring located outside the monument and conservation area boundary, has rights associated with it for irrigation use within the conservation area (Table 2 and Figure 2). Water from the spring was used to irrigate 1,593 acres in the northern part of the conservation area. None of this acreage is within the monument boundary.

Surface water from Cebolleta Spring in the eastern part of the conservation area has rights associated with it for the irrigation of 280 acres within the conservation area (Table 2 and Figure 2). Water from the spring is also used for several stock ponds which have a water right. None of these water rights is for use inside the monument boundary.

VI. SUMMARY AND CONCLUSIONS

Information on available water resources within the proposed boundary of the El Malpais National Monument and the Grants Conservation Area is not extensive. Domestic and stock wells of small capacity extract water from several sandstone formations as well as the San Andres-Glorieta aquifer. Without more information on the San Andres-Glorieta and other aquifers, it is conjectural whether moderate to large amounts of ground water would be feasibly recoverable from the area. There are 68 wells, springs and pending water right applications in the proposed Grants Conservation area, of which 18 are located within the El Malpais National Monument boundary. Most are for stock and domestic use, except for 10 pending applications by the Acoma Pueblo for irrigation, stock, domestic and industrial use. There are surface water rights to irrigate 1,873 acres within the conservation area, none of which are located within the monument boundary.

VIII. REFERENCES

Cooper, J. B. and S. W. West, 1967. Principal aquifers and uses of water between Laguna Pueblo and Gallup, Valencia and McKinley counties, New Mexico. N.M. Geol. Soc. Guidebook, 18th Field Conf., p. 145-149.

Gordon, E. D., 1961. Geology and groundwater resources of the Grants-Bluewater area, Valencia County, New Mexico. N.M. State Engineer Office Tech. Rpt. 20, 109 p.

TABLE 1

Wells and Springs Located Within the Proposed Boundary of the El Malpais National Monument and Grants Conservation Area

Symbols: d, domestic; s, stock; i, irrigation; u, unused; n, industrial; pb, well drilled prior to basin declaration in 1976

Location	Owner	Water Right File Number	Use
8.12.17.22	Lowery	B0426	
10.09.17.11	Gottlieb	B0105	
10.10.11.3	Valencia Co.	B0790	d
10.10.26.331	Plains Electric	B0937	
10.10.36.444	Garcia	B0755	d
6.11.28	Raney	RG33042	d,s
6.13.13	Moleras	RG45246	d,s
7.13.34	USDI, BLM	RG36848	d,s
8.10.25	Meringer	RG38355	d,s
*8.11.01.323	Sena	B01101	d,s
*9.12.14.31	Vance	B01094	d,s
*8.9.07.310	Acoma	B985**	i,s,d,n
*8.10.13.110	Acoma	B985**	i,s,d,n
*8.10.14.330	Acoma, BLM	B985**	i,s,d,n
*8.10.23.220	Acoma	B985**	i,s,d,n
*8.10.23.430	Acoma, BLM	B985**	i,s,d,n
*8.10.26.230	Acoma	B985**	i,s,d,n
*8.10.26.310	Acoma, BLM	B985**	i,s,d,n
*8.10.34.340	Acoma	B985**	i,s,d,n
*8.10.34.410	Acoma	B985**	i,s,d,n
8.10.35.110	Acoma, BLM	B985**	i,s,d,n
4.11.12.432	King	pb	d,s
5.09.03.133	Major	pb	u
5.09.10.131	Major	pb	s
5.09.14.221	Major	pb	u
5.09.19.433	Major	pb	u
5.09.25.412	Major	pb	s
5.09.31.323a	Major	pb	u
5.09.31.323	Major	pb	?
5.10.12.113	King	pb	s (spring)
5.10.12.141	King	pb	s (spring)
5.10.17.412	King	pb	s
5.10.23.422	King	pb	s
5.10.27.233	King	pb	s
5.10.34.223	King	pb	s
5.11.26.323	King	pb	s
6.10.06.121	King	pb	s

Location	Owner	Water Right File Number	Use
6.10.07.232	King	pb	s
6.10.20.114	King	pb	s
6.10.20.411	King	pb	s
*6.11.02.412	King	pb	s
6.12.01.311	King	pb	s
6.12.13.421	King	pb	s
6.13.17.112	Moleras	pb	?
7.09.09.334	King	pb	(spring)
*7.10.20.414a	King	pb	s
*7.10.20.414b	King	pb	s
7.10.22.112	King	pb	s
7.11.02.311	King	pb	s
7.12.13.244	King	pb	s
*7.12.21.433	King	pb	s
8.09.07.311	Acoma	pd	s
8.10.24.221	Acoma	pb	s
8.10.24.311	Acoma	pb	s
8.10.26.412	Acoma	pb	s
8.10.35.141	King	pb	s
8.11.04.414	Arrosa	pb	s
8.11.06.233	Bright	pb	s
8.11.10.111	Porter	pb	d
*8.12.19.334	Major	pb	s,d
9.10.10.414	Mirabal	pb	s,d
*9.10.35.110	Mirabal	pb	s
10.09.21.222	Gottlieb	pb	s
10.09.21.444	Gottlieb	pb	s
10.09.29.132	Gottlieb	pb	s
10.09.31.324	Gottlieb	pb	s
10.10.23.132	?	pb	u
10.10.25.331	Mirabal	pb	i

*Locations within the monument boundary

**Acoma Pueblo filed application number "B985 and RG38592 et al amended" on November 9, 1984 to appropriate 20,000 acre-feet of ground water per year from the San Andres-Glorieta aquifer; application has been protested and the consideration of the application awaits completion of a groundwater study by the U.S. Geological Survey.

TABLE 2

Rights to Irrigated Acreage and Stock Ponds Supplied With Surface Water Sources Within the Proposed Grants Conservation Area

(none within the boundary of the El Malpais National Monument)

Location	Owner	Water Rights File No.	Water Source	Acres
10.10.1,2	Mirabal	03007	Ojo del Gallo*	290
10.10.14	Klute	03128	Ojo del Gallo*	40
10.10.11	Mirabal	03009	Ojo del Gallo*	110
10.10.26	Mirabal	03952	Ojo del Gallo*	320
10.10.11	La Vega Estates	03058	Ojo del Gallo*	162.8
10,10.1,12	Mirabal	03008	Ojo del Gallo*	670
7.9.8	Garcia	0433	Cebolleta Spring	280
7.9.6,7,8	Bibo	01429	Cebolleta Spring	Stock ponds

*The Ojo del Gallo, a spring located outside the boundary of both the conservation area and the monument, has water rights associated with it for the irrigation of about 1,593 acres within the conservation area.

Senator DOMENICI. I hope you all will look at it, because I think as a matter of substance it does lend itself to a solution to that problem. My final thought is one of appreciation. Thank you very much.

We started off a half year ago very far apart, a couple months ago yet far apart, and I think today we have come to a point where we can see some daylight. We hope we produce a bill that you can recommend to the President to sign. I understand that is your desire also, to try to do that.

Mr. HORN. Absolutely.

Senator DOMENICI. Thank you very much.

Senator BINGAMAN. Thank you very much, Senator Domenici. Let me just put two other items in the record here. One is a Table 2-2, from the Rio Puerco Resource Management Plan, dated October of 1985, which lists wilderness study areas currently managed under interim management policy.

The other is Table 2-2, which is the BLM recommendations from the statewide draft EIS dated September of 1986. We will include both of those in the record also related to the wilderness study areas.

[The tables referred to follows:]

TABLE 2-2

WILDERNESS STUDY AREAS CURRENTLY MANAGED UNDER INTERIM MANAGEMENT POLICY AND GUIDELINES FOR LANDS UNDER WILDERNESS REVIEW

Name	Current Wilderness Recommendation	Current Status*
Ojito	Suitable for Wilderness	Wilderness Study Area
Cabezon	Suitable for Wilderness	Wilderness Study Area
La Lena	Unsuitable for Wilderness	Wilderness Study Area
Empedrado	Unsuitable for Wilderness	Wilderness Study Area
✓ El Malpais	Suitable for Wilderness	Instant Study Area**
Ignacio Chavez***	Under Study	Wilderness Study Area
Chamisa***	Under Study	Wilderness Study Area
✓ Rimrock***	Under Study	Wilderness Study Area
✓ Sand Canyon***	Under Study	Wilderness Study Area
✓ Pinyon***	Under Study	Wilderness Study Area
Petaca Pinta***	Under Study	Wilderness Study Area
✓ Little Rimrock***	Under Study	Wilderness Study Area
Manzano***	Under Study	Wilderness Study Area

* All Wilderness Study Areas will be analyzed in a revised draft of the Statewide EIS except for El Malpais which was analyzed in the Draft Environmental Impact Statement and Wilderness Study Report for Wilderness Designation of El Malpais (USDI, BLM 1981c).

** Instant Study Areas are public land areas, formally designated as Natural or Primitive areas prior to November 1, 1975, which were automatically designated as Wilderness Study Areas.

*** These areas were reinstated as Wilderness Study Areas on April 18, 1985 as a result of the decision in Sierra Club, et al. v. Watt, et al. (No. Civil 2-83-035 LKK).

BLM Recommendations -- from Statewide Draft EIS
Sept., 86

TABLE 2-2
WSAs BY ACREAGE AND ALTERNATIVE

WSAs	ALL WILDERNESS	EMPHASIS ON MANAGEABILITY	PROPOSED ACTION	CONFLICT RESOLUTION	NO WILDERNESS
ALBUQUERQUE DISTRICT					
1. Rio Chama	11,985	5,232	5,232	5,232	0
2. Sabinoso	15,760	0	0	0	0
3. San Antonio	7,050	0	0	0	0
4. Cabezon	8,159	8,159	8,159	0	0
5. Empedrado	9,007	9,007	9,007	0	0
6. Ignacio Chavez a/	33,264	33,609*	33,609*	24,765	0
7. Chamisa a/	13,692	16,582*	16,582*	12,625	0
8. La Lena	10,438	10,438	10,438	0	0
9. Manzano	881	881	881	0	0
10. Ojito	10,903	10,903	10,903	0	0
11. Petaca Pinta	11,668	10,631	10,631	0	0
12. Rimrock	29,818	29,818	29,818	0	0
13. Sand Canyon a/	8,543	8,566*	8,566*	0	0
14. Little Rimrock a/	9,920	9,945*	9,945*	0	0
15. Pinyon a/	12,365	12,413*	12,413*	0	0
LAS CRUCES DISTRICT					
16. Antelope	20,710	9,892	0	0	0
17. Continental Divide	68,761	37,599	37,599	0	0
18. Devil's Backbone	8,904	0	0	0	0
19. Eagle Peak	43,960	0	0	0	0
20. Horse Mountain	5,032	4,432	4,432	4,432	0
21. Jornada del Muerto	31,147	31,147	31,147	0	0
22. Mesita Blanca	19,414	9,300	0	0	0
23. Presilla	8,680	0	0	0	0
24. Sierra de las Canas	12,838	12,798	12,798	12,798	0
25. Sierra Ladrones	45,308	31,804	31,804	0	0
26. Stallion	24,238	24,238	0	0	0
27. Veranito	7,206	7,206	0	0	0
28. Aden Lava Flow	25,287	25,287	25,287	25,287	0
29. Alamo Hueco Mtns.	16,264	0	0	0	0
30. Big Hatchet Mtns.	65,872	45,374	45,374	45,374	0
31. Blue Creek	14,896	0	0	0	0
32. Cedar Mtns.	14,911	14,911	0	0	0
33. Cookes Range	19,608	0	0	0	0
34. Cowboy Spring	6,699	6,699	6,699	6,699	0
35. Florida Mtns.	22,336	22,336	0	0	0
36. Gila Lower Box	8,555	5,835	5,835	5,835	0
37. Las Uvas Mtns.	11,067	0	0	0	0
38. Organ Mtns.	7,283	7,144	7,144	0	0
39. Robledo Mtns.	12,946	12,946	0	0	0
40. West Potrillo Mtns. a/					
41. Mt. Riley a/	157,185	148,540	148,540	148,540	0
42. Brokeoff Mtns.	31,606	31,606	13,236	13,236	0
43. Culp Canyon	10,937	0	0	0	0
ROSWELL DISTRICT					
44. Carrizozo Lava Flow a/					
45. Little Black Peak a/	25,312	24,249	24,249	24,249	0
46. Mudgetts	2,941	2,230	0	0	0
		SUMMARY			
WSA ACREAGE RECOMMENDED SUITABLE	943,356	678,426	556,997	329,072	0
NON WSA ACREAGE RECOMMENDED SUITABLE	0	3,331	3,331	0	0
TOTAL ACREAGE RECOMMENDED SUITABLE	943,356	681,757	560,328	329,072	0
TOTAL WSA ACREAGE RECOMMENDED NONSUITABLE	0	264,930	386,359	614,284	943,356
PERCENT OF TOTAL WSA ACREAGE RECOMMENDED SUITABLE	100	72	59	35	0

NOTES: * This acreage includes adjacent non-WSA public land.

a/ WSAs 6 and 7; WSAs 13, 14, and 15; WSASs 40 and 41; and WSAs 44 and 45 are adjacent to each other and are being studied jointly.

note that El Malpais is not included

Senator BINGAMAN. I do think both Senator Domenici and I will submit some additional questions to you, but we appreciate you coming today very much.

Mr. O'NEAL. Thank you, Mr. Chairman.

Mr. HORN. Thank you, Mr. Chairman.

Senator BINGAMAN. We are going to skip over a few of the other witnesses who were here to discuss the Cypress legislation, and go directly to our Commissioner of Public Lands for the State of New Mexico, Bill Humphries, who is here to testify also on S. 56. If he would come forward please.

We welcome you to the hearing, and I think obviously, it is clear to all of us here in the delegation that the cooperation and help of the State of New Mexico and your office are crucial to this project succeeding. I know of your interest in this, so we are anxious to have you here, and look forward to your testimony.

Did you have anything to say, Senator Domenici?

Senator DOMENICI. Mr. Chairman, might I just join you in welcoming the Commissioner. We look forward to working with you, and with the Governor's office. I hope you have brought some indication of the Governor's position. Have you?

Mr. HUMPHRIES. Yes sir, I have.

Senator DOMENICI. Will you submit that as part of this testimony?

Mr. HUMPHRIES. I will be happy to, if you would like me to read it into the record, I will, or I will make discussion of a few points of it and submit it for your consideration.

Senator BINGAMAN. Why do not you go ahead and just summarize, or proceed as you would like. We will be glad to include in the record any written testimony you have.

STATEMENT OF W.R. HUMPHRIES, COMMISSIONER OF PUBLIC LANDS, NEW MEXICO STATE LAND OFFICE

Mr. HUMPHRIES. Mr. Chairman, first, on behalf of the Governor, Governor Carruthers and Tom Bahr, Secretary of Natural Resources in New Mexico, I brought their written statements and I will leave them with you.[1]

They are very supportive of the concept. They raise the questions of concern over reserved water rights. They raise the question of concerns over grazing rights and private land protection. In general, they are supportive, as you know, and I will not belabor it, other than to tell you that you have already addressed those and we will work with you on that.

On behalf of the public lands in New Mexico, the State Land Office, I will not read the whole statement. I will leave it with you, but I will address the high points. As you know, we have some 9,000,000 acres of surface, and some 13,000,000 acres of minerals in New Mexico, that were granted to the State on behalf of public schools and other public institutions.

We are very supportive of this concept. We have some 28,000 acres within the monument in the Grants National Conservation Area. We have worked diligently with the Bureau of Land Management already to identify areas for exchange. We see no problems as far as addressing the time schedule, and we feel like we are well on our way to doing that.

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[1] See Appendix II.

I did address a question in my comment that I believe is appropriate, to ask you at this point to also consider the fact that these kinds of exchanges affect the PILT monies the counties receive in New Mexico.

So I would like you to consider that legislation. Although it is a separate piece of legislation, there is some wording in PL 97-258 Title 31 Section 6902b, that deals with the loss of PILT payments to the counties upon this type of exchange. We feel like it is detrimental to the very type of exchange that we are trying to accomplish here. However, we can accommodate it in this exchange.

Simply, what it does is it takes out of the course of PILT payments lands that had not previously had taxes paid upon them. So the net loss, in this case, will be in the county in which the new state exchanges take place, because there will no longer be PILT funds paid by the Department of the Interior or the Bureau of Land Management, nor will there be property taxes received as the fact that we will be the new landowner.

So it does have potential impact. As you know, some ten million dollars in PILT funds are paid in New Mexico each year on 12 million acres of surface. So, it is an important impact that we need to consider.

I am also interested that you certainly take into consideration the effects of these withdrawals, the effects that it might have on private lands. We are concerned, naturally, about protecting the integrity of private lands. And if there are inholders left within, we would certainly want them to be well protected.

In general, we are very supportive. We think the measure is progressive and vital to the State, and we support. If you have any questions, I will be happy to answer them.

[The prepared statement of Mr. Humphries follows:]

STATEMENT BEFORE THE PUBLIC LANDS SUBCOMMITTEE OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

W. R. HUMPHRIES
COMMISSIONER OF PUBLIC LANDS
NEW MEXICO STATE LAND OFFICE
FEBRUARY 19, 1987

MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to appear before you today and speak in support of the Masau Trail Act, which includes the Masau Trail, the El Malpais National Monument and the Grants National Conservation Area.

The Commissioner of Public Lands of New Mexico manages more than nine million acres of surface and 13 million acres of mineral Trust Lands scattered throughout the state. Let me put that acreage in perspective: If all 13 million acres were in one solid block - which they are not - it would equal an area about the size of the states of Vermont and New Hampshire combined. These lands were granted to the State to provide a perpetual source of income for public schools, universities and other public institutions. About 28,000 acres of Trust Lands are included within the boundaries of the proposed El Malpais National Monument and the Grants National Conservation Area. The management of those lands, surrounded as they are by federal and private land, is cumbersome at best. That's one reason we support the legislation: It will allow us to consolidate our trust holdings into larger, more manageable blocks.

Another reason I am in support of the legislation is that it will provide economic opportunities for an area of New Mexico that is unrivaled in its natural beauty and in its outstanding cultural and human resources. The economic benefits offered by the Masau Trail should improve the economic stability of northwestern New Mexico. It also will enchance other State Land Office acreage by increasing its value for recreation and commercial use, which is one of our priorities, particularly since we can no longer afford to rely so heavily on our mineral industries and must diversify our income base.

Language in the proposed legislation very adequately deals with the exchange of State Trust Lands within the Monument Conservation Area for equal value federal lands elsewhere in New Mexico. In fact, our staff already is working with the Bureau of Land Management to identify and evaluate lands in other areas of New Mexico that will allow us to create larger blocks of state land while eliminating small scattered parcels of federal land that currently present management problems for the Bureau. I am positive the exchange can be made within the time frame established by the legislation.

I ask you also to be supportive of the multiple-use concept included in these areas. The Conservation Area, with similar grazing and public use as administered by the Bureau of Land Management, is compatible with the present needs of the area and the proposed changes. I don't think that drastic changes outside the actual El Malpais lava flow will enhance the management of the areas or the natural environment. In fact, if too restrictive, the changes will damage both the quality of the area and the public enjoyment.

I ask you also to consider that the elimination of the PILT payment as a result of state/federal exchanges is very damaging to New Mexico and discourages the very type of exchange we are accomplishing here. I realize that it is separate legislation, but please consider that impact in your deliberations and think about changing PL 97-258 Title 31 Section 6902b.

In closing, please recognize the far-reaching implications of this good idea and make sure that the integrity of private property rights is not compromised and that inholders, if any, are treated fairly. This bill encompasses approximately 380,000 acres. Please set the boundaries very carefully and please remember that multiple use is a well-proven concept for management.

This measure is progressive and vital and the State Land Office supports it.

Senator BINGAMAN. I appreciate the testimony. Let me just ask, I guess it is section 502(c) of this bill which sets forth the procedure for the exchange of lands that might be necessary here. Have you had a chance to review that, and if you feel comfortable that that is workable and that language provides the necessary authority to do what you think would need to be done here?

Mr. HUMPHRIES. Yes, sir. In practice, as a practical matter, we have been working on the exchange for several years so we feel like we can certainly accommodate the time period in there. The language of being binding on the Commissioner of Public Lands in New Mexico gives us some reason for concern, but not so much as to not feel like it can be accommodated.

As you know, the Commissioner receives his power from the Constitution of the State of New Mexico, and we feel like to bind a public official of constitutional stature in New Mexico may be a problem. However, we think we can work with it; if you would consider that language as perhaps being subject to change, we would feel more comfortable.

Senator BINGAMAN. All right.

Senator Domenici, did you have questions?

Senator DOMENICI. I was going to ask the same question. I think all you are saying, Commissioner, is that we have a provision in here for the independent appraisal being binding. And you do not necessarily say you are going to have an argument with that conclusion. It is just that you do not want your settlement to be challenged on constitutional grounds; so we ought to in some way fix that language so that it gets done, but that it is not subject to challenge. Is that a fair assessment?

Mr. HUMPHRIES. Yes, Mr. Chairman, Senator Domenici, that is correct. We are of the opinion that as a practical matter this exchange is well on its way, and we do not see a problem with ever getting to the point where it would be a decision that would create a constitutional confrontation. But we are concerned that that language could have future implications. As you know, we have got many exchanges underway, and we would like to be certain that we do not run into problems here.

Senator DOMENICI. Commissioner, you are in touch with a lot of the ranching community in New Mexico, and obviously you are aware of the animal unit permittees in the area that this legislation encompasses.

Mr. HUMPHRIES. Yes, sir, I am.

Senator DOMENICI. We are aware that it is the Majors family, the King family, and three or four other major ones. Have you had any discussions with them that would be helpful to us as we proceed here?

Mr. HUMPHRIES. Yes, Senator Domenici. I have spoken with both families. As you know, both families have ranches on the south end of the designated areas. One is more affected by the monument than the other. Both have extreme concerns that some of the animal unit months that they are allocated would be lost in the termination in the 1996 date.

The concept of staying within the national conservation area is acceptable. It is a continuation of that continued type of management. The Governor explained in his letter that so long as we continue the same concepts that even the Wilderness Act provides for, that we are safe. We just do not want to see an arbitrary end brought to those allotments of animal unit months in those areas.

There are some fringe areas in the monument that certainly has grazing potential. But that historically has been eliminated, and this is provided for by 1996. We ask that those animal unit months be maintained to the maximum ability and under the present circumstances, with the Bureau setting the guidelines.

Senator **Domenici**. So you are suggesting a way to preserve the animal unit permittees allotments, even beyond the terminal date expressed in the legislation, and that you indicated that that is desirable in certain areas?

Mr. **Humphries**. Yes, especially in the conservation area. Even in the wilderness study areas, there is provision for actual maintenance of continued allocation based on proper use of the existing animal unit months allocated.

The 1996 termination date within the monument creates some concern for both of those two families that have expressed it. I share their concerns that we not arbitrarily terminate those. There are some areas that certainly lend themselves to grazing that would not adversely affect public enjoyment of the monument, nor would they adversely affect the wildlife habitat.

Senator **Domenici**. Thank you very much.

Senator **Bingaman**. Let me just say for anyone's information, we are also going to keep this record open for 30 days, and solicit any kind of written concern or statement that either Governor King or any of the other affected allottees there have.

Let me just indicate, Commissioner Humphries, that we have some additional questions that I will just submit in writing for you to respond to. I appreciate your being here very much, and appreciate your support for this effort and cooperation. Thank you very much.

Mr. **Humphries**. Thank you for the opportunity to be here.

Senator **Domenici**. Thank you very much, Commissioner.

Senator **Bingaman**. Our next witness will be the Governor of Acoma Pueblo, Governor Paytiamo. If he would come forward, we would be glad to hear his testimony on this proposed legislation.

Governor, welcome to the committee. I know that you have followed this issue for some time now, and have some very real concerns that we certainly want to take account of and try to resolve. So, if you would go ahead and give your testimony. Senator Domenici, do you have any comment?

Senator **Domenici**. No, I just wanted to say, welcome again.

STATEMENT OF HON. STANLEY PAYTIAMO, GOVERNOR, PUEBLO OF ACOMA; ACCOMPANIED BY DAVID FRED GARCIA, TRIBAL INTERPRETER

Governor **Paytiamo**. Thank you. Good morning. Just bear with me, and I will try to get through this as fast as I can.

I am Governor Paytiamo from Pueblo of Acoma, and also I have David Fred Garcia here with me, the tribal interpreter. Mr. Chairman and members of the Committee, the Pueblo of Acoma appreciates the opportunity to appear before you today to discuss S. 56, a bill to establish the El Malpais National Monument and Masau Trail in Grants National Conservation area in the State of New Mexico.

The Pueblo of Acoma has opposed the creation of the El Malpais National Monument for years. Copies of the Pueblo's statements are attached as exhibits to this letter and testimony. The Pueblo has also opposed wilderness study areas affecting Pueblo lands. As one of the original Sovereigns in our Federal system of Government, along with the States and other Indian Tribes, the Pueblo of Acoma is willing to look for ways that it can participate constructively in the Federal effort outlined in the bill labeled S. 56.

The tourist development in the proposed legislation calls for the participation of the Pueblo of Acoma in the management planning, and protects our traditional culture and religious activities to some extent. We appreciate this recognition of the key role the Pueblo of Acoma can and should play in the development described in this bill. We look forward to the benefits to be gained from tourism which will result, we hope, from this bill after it becomes law.

The Pueblo of Acoma has important economic interests, primarily grazing, which must be addressed before the Pueblo can support this bill.

A brief review of the history of the interaction between the United States of America and the Pueblo of Acoma on land matters shows the basis for the Pueblo's concerns. Attached to this testimony is a statement delivered on February 10, 1987, to a meeting in New Mexico where this bill was discussed. That statement describes how Federal laws have wronged the Pueblo of Acoma over the last century. The Acoma land office selected several documents as exhibits to that statement, which show this history in more detail. These papers are part of the total statement the Pueblo wants included in the record of this hearing.

When the Pueblo of Acoma petitioned the Indian Claims Commission in 1951, we stated that the Pueblo at one time controlled lands amounting to over 2.5 million acres. The Indian Claims Commission found that the Pueblo lost some land during Spanish and Mexican times. It also found the United States either directly took or is responsible for the loss of over 1.5 million acres of Acoma lands.

The Pueblo received some compensation for the loss of that acreage. The Pueblo has spent millions of dollars purchasing ranches which adjoin its present reservation boundaries. One of these ranches, the Berry Hill Ranch, was completely within the proposed boundaries of the El Malpais National Monument and the Grants National Conservation area. The Rimrock wilderness study area extends into a portion of the Berry Hill Ranch as well.

During the 1930's, the United States acquired close to 250,000 acres of land in Eleven Township areas, of what was called the public domain for the benefit of the Pueblo of Acoma. These were known collectively in the Government documents as the south Acoma purchase area.

The Congressional Act of August 13, 1949, includes less than half of the Eleven Township areas or south of Acoma Purchase Area into the Acoma Indian Reservation status. The Berry Hill Ranch, and the Carl Wilson or Bar 15 Ranch, which is Pueblo also is

Acoma purchase area. The United States now wants to take the Berry Hill Ranch away from the Acomas again.

The Pueblo has been unable to obtain accurate copies of the three maps referred to in the Senate bill 56. The Pueblo would like the opportunity to expand its comments after it has been provided with copies of the maps referred to in Sections 101 (Boundary Map, El Malpais National Monument); Section 301 (Grants National Conservation area-proposed); and Section 401 (Grants National Conservation area-proposed wilderness), all dated October 1986.

The Pueblo anticipates that these maps will show that the Pueblo will lose over 5,416 acres of grazing lands located west of State Road 117, the proposed boundary for the National Monument. Acoma has many wells inside the Berry Hill Ranch. The water rights and access to the water from these wells must be preserved and maintained for the Pueblo. This water is the lifeline for our people.

The Pueblo has as a first priority retaining control of the remaining Berry Hill Ranch lands east of 117. The Pueblo of Acoma would like the Federal lands east of 117 which are controlled by the Berry Hill Ranch together with the Acoma fee lands and water rights in the Berry Hill Ranch to be placed into trust for the Pueblo of Acoma by this Act of Congress.

In compensation for the loss of lands owed in fee by the Pueblo of Acoma and the Federal grazing lands controlled by the Pueblo of Acoma west of State Road 117, the Pueblo of Acoma would like this legislation also to place the Federal lands and Acoma fee lands and water rights located inside the Bar 15 or Carl Wilson Ranch into trust reserved for the exclusive use of the Pueblo of Acoma.

The recommendations consistently made by the Pueblo of Acoma to Representative Bill Richardson and to Senator Pete Domenici are reaffirmed here, and they are:

First, the El Malpais National Monument's east boundary must not be the same as the Acoma Indian Reservation.

Two, the east boundary of El Malpais National Forest should be State Road 117 or to the west side of the Acoma lands.

Three, the wilderness study area affecting Acoma lands—Rimrock and Petaca Pinta—should be deleted from the wilderness area's status.

These recommendations will be met by the requests just outlined: The ranch lands together with the existing water rights owned in fee or made available by the Federal Government under the grazing leases currently held by the Pueblo of Acoma in the Berry Hill Ranch and Bar 15 or Carl Wilson Ranches should be placed in trust for the Pueblo of Acoma. The economic well-being of our Pueblo will be strengthened by this step.

This legislation placing into trust status the Berry Hill lands outside the National Monument, together with the Acoma fee and Federal lands inside the Carl Wilson or Bar 15 Ranch can be accomplished with no cost to the Federal Government. The United States presently controls these lands and leases them to the Pueblo of Acoma. No other land owners would be affected. No acquisition cost would be involved in Congress placing these lands in trust status for the Pueblo of Acoma.

With the addition to the bill of trust status for these Acoma controlled ranch lands, the Pueblo of Acoma can and will support Senate Bill S. 56.

The Pueblo of Acoma looks forward to discussions with representatives of the National Park Service, the BLM, and the New Mexico Congressional delegation, and other interested parties to develop ways that these agencies and Congress can work with the Pueblo of Acoma to accomplish the needs described in these remarks.

This concludes my prepared statement, Mr. Chairman. I will be happy to respond to any questions that you or other Members of the Committee may have. I would also appreciate the opportunity to supplement these remarks after the Pueblo of Acoma have had the opportunity to review the maps referred to in the legislation.

Thank you again for the opportunity to appear before this committee.

[Attachments to Governor Paytiamo's statement follow:]

IN REPLY REFER TO:

PUEBLO DE ACOMA
"THE SKY CITY"
P. O. Box 309
ACOMITA, NEW MEXICO 87034
TELEPHONE (505) 552-6606

February 17, 1987

Chairman, Subcommittee on Public Lands,
National Parks and Forests
Committee on Energy & National Resources
United States Senate,
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are copies on material that will presented at the hearing on Thursday, February 19, 1987.

1. These are previous comments made by the Pueblo of Acoma on the El Malpais and Wilderness Study Area.
2. Position papers on legislation of HR 403 and S. 56, relating to the Grants National Conservation Area.
3. A compliction of selected papers showing Acoma's Rights within the proposed El Malpais National Monument and Grants National Conservation Area.
4. Other related material on Acoma's range lands and wilderness areas.

Please do not hesitate to call, if there are any question to the material submitted.

Sincerely,

PUEBLO OF ACOMA

Stanley Paytiamo,
Governor

SP:DS:pag

cc: Stanley Paytiamo, Governor
Pete Domenici, Senator
Files

STATEMENT OF STANLEY PAYTIAMO, GOVERNOR, PUEBLO OF ACOMA, BEFORE THE SUB-COMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES CONCERNING S.56, A BILL TO ESTABLISH THE EL MALPAIS NATIONAL MONUMENT, THE MASAU TRAIL, AND THE GRANTS NATIONAL CONSERVATION AREA IN THE STATE OF NEW MEXICO, AND FOR OTHER PURPOSES.

DATED: FEBRUARY 19, 1987

Mr. Chairman and Members of the Committee, the Pueblo of Acoma appreciates the opportunity to appear before you today to discuss S.56, a bill to establish the El Malpais National Monument, the Masau Trail and the Grants National Conservation area in the State of New Mexico.

The Pueblo of Acoma has opposed the creation of the El Malpais National Monument for years. Copies of the Pueblo's statements are attached as exhibits to this letter and testimony. The Pueblo has also opposed wilderness study areas affecting Pueblo lands. As one of the original sovereigns in our federal system of government, along with the States and other Indian tribes, the Pueblo of Acoma is willing to look for ways that it can participate constructively in the federal effort outlined in the bill labeled S.56.

The tourist development in the proposed legislation calls for the participation of the Pueblo of Acoma in the management planning, and protects our traditional culture and religious activities to some extent. We appreciate this recognition of the key role the Pueblo of Acoma can and should play in the development described in the bill. We look forward to the benefits to be gained from tourism which will result, we hope, from this bill after it becomes law.

The Pueblo of Acoma has important economic interests, primarily grazing, which must be addressed before the Pueblo can support this bill.

A brief review of the history of the interaction between the United States of American and the Pueblo of Acoma on land matters shows the basis for the Pueblo's concerns. Attached to this testimony is a statement delivered February 10, 1987, to a meeting in New Mexico where this bill was discussed. That statement describes how federal laws have wronged the Pueblo of Acoma over the last century. The Acoma land office selected several documents as exhibits to that statement which show this history in more detail. These papers are part of the total statement the Pueblo wants included in the record of this hearing.

When the Pueblo of Acoma petitioned the Indian Claims Commission in 1951, we stated that the Pueblo at one time controlled lands amounting to over 2.5 million acres. The Indian Claims Commission found that the Pueblo lost some land during Spanish and Mexican times. It also found the United States either directly took or is responsible for the loss over 1.5 million acres of Acoma lands. The Pueblo received some compensation for the loss of that acreage. The Pueblo has spent millions of dollars purchasing ranches which adjoin its present reservation boundaries. One of these ranches, the Berry Hill ranch, was completely within the proposed boundaries of the El Malpais National Monument and the Grants National Conservation area. The Rimrock wilderness study area extends into a portion of the Berry Hill ranch as well.

During the 1930s the United States acquired close to 250,000 acres of land in Eleven Townships of what was called the public domain for the benefit of the Pueblo of Acoma. These were known collectively in government documents as the south Acoma purchase area. The Congressional Act of August 13, 1949, included less than half of the Eleven Townships or south Acoma Purchase Area into the Acoma Indian Reservation status. The Berry Hill Ranch, and the Carl Wilson or Bar 15 ranch which the Pueblo also

Acoma purchase area. The United States now wants to take the Berry Hill Ranch away from the Acomas again.

The Pueblo has been unable to obtain accurate copies of the 3 maps referred to in Senate Bill 56. The Pueblo would like the opportunity to expand its comments after it has been provided with copies of the maps referred to in Sections 101 (Boundary Map, El Malpais National Monument), Section 301 (Grants National Conservation area-proposed) and Section 401 (Grants National Conservation area-proposed wilderness) all dated October 1986.

The Pueblo anticipates that these maps will show that the Pueblo will lose over 5,460 ~~12,000~~ acres of grazing lands located west ~~east~~ of State Road 117, the proposed boundary for the National Monument. Acoma has many wells inside the Berry Hill ranch. The water rights and access to the water from these wells must be preserved and maintained for the Pueblo. This water is a lifeline for our people. The Pueblo has as a first priority retaining control of the remaining Berry Hill ranch lands east of State Road 117. **The Pueblo of Acoma would like the federal lands east of 117 which are controlled by the Berry Hill ranch together with the Acoma fee lands and water rights in the Berry Hill ranch to be placed into trust for the Pueblo of Acoma by this Act of Congress.**

In compensation for the loss of lands owed in fee by the Pueblo of Acoma and federal grazing lands controlled by the Pueblo of Acoma west of State Road 117, **the Pueblo of Acoma would** like this legislation also to place the federal lands and Acoma fee lands and water rights located inside the Bar 15 or Carl Wilson ranch into trust, reserved for the exclusive use of the Pueblo of Acoma.

The recommendations consistently made by the Pueblo of Acoma to Representative Bill Richardson, and to Senator Pete Domenici, are reaffirmed here. They are:

1. The El Malpais National Monument's east boundary must not be the same as the Acoma Indian Reservation.

2. The east boundary of the El Malpais National Monument should be State Road 117 and on the west side of Acoma lands.

3. The wilderness study areas affecting Acoma lands-Rimrock and Petaca Pinta-should be deleted from wilderness study status.

These recommendations will be met by the requests just outlined: The ranch lands together with existing water rights owned in fee or made available by the federal government under grazing leases currently held by the Pueblo of Acoma in the Berry Hill ranch and Bar 15 or Carl Wilson ranches should be placed in trust for the Pueblo of Acoma. The economic well-being of our Pueblo will be strengthened by this step.

This legislation placing into trust status the Berry Hill lands outside the National Monument together with the Acoma fee and federal lands inside the Carl Wilson or Bar 15 ranch can be accomplished with no cost to the federal government. The United States presently controls these lands and leases them to the Pueblo of Acoma. No other land owners would be affected. No acquisition cost would be involved in Congress placing these lands in trust status for the Pueblo of Acoma.

With the addition to the bill of trust status for these Acoma controlled ranch lands, the Pueblo of Acoma can and will support Senate Bill 56.

The Pueblo of Acoma looks forward to discussions with representatives of the National Park Service, the Bureau of Land Management, the New Mexico Congressional delegation, and other interested parties to develop ways that those agencies and Congress people can work with the Pueblo of Acoma to accomplish the needs described in these remarks.

This concludes my prepared statement, Mr. Chairman. I will be happy to respond to any questions that you or other members of the Committee may have. I would also appreciate the opportunity to supplement these remarks after the Pueblo of Acoma has had the opportunity to review the maps referred to in the legislation.

Thank you again for the opportunity to appear before this Congressional committee.

IN REPLY REFER TO

PUEBLO DE ACOMA
"THE SKY CITY"
P. O. Box 309
ACOMITA, NEW MEXICO 87034

TELEPHONE (505) 552-6604

July 9, 1986

The Honorable Bill Richardson
U.S. House of Representatives
[illegible] Cannon House Office Building
Washington, D.C. 20515

Dear Honorable Richardson:

The Pueblo of Acoma's position remains adamantly opposed to the boundaries described in H.R. 3634, the El Malpais National Monument. The recently revised bill only reaffirms the exterior boundaries originally established by your office.

It is our understanding that the east boundary of the monument area still coincides with the west boundary of the Acoma Indian Reservation. We opposed this demarcation and we recommend that the monument boundary be changed to the westside of State Road 117, which lies along the lava beds. We also asked that State Road 117 be the east boundary of the El Malpais National Monument.

We expressed our concerns to you when you visited with us on May 23, 1986. A map showing our 4,056 acres of deeded lands within the proposed monument was at that time provided to you. The map also showed our recommended boundary.

In response to Acoma's concerns, the concerns of Bruce Pino and his brothers, to an Indian allottee, and to the opposition of the Bureau of Land Management, your office revised H.R. 3634. In the revised legislation Indian and private lands were excluded from the bill.

This added wording is really an insignificant gesture to appease the opposition. It really is an affront to us and you have questioned our integrity to fully comprehend the legislative process. Because you well know private property rights are normally, already respected under new federal laws. Therefore, all existing rights were protected in your original legislation. What your proclaimed improved language does is only to reiterate this protection. Furthermore, your office has made every attempt to prohibit any negative response from us to your legislation when you have repeatedly refused to provide us with the redrafted legislation.

We thus oppose H.R. 3684 in its present format and we continue to state that the east boundary of the proposed El Malpais National Monument be State Road 117.

With concerned interest we continue to watch this bill in Congress and we request that your office fulfill its public responsibility to keep us informed on the status of this particular bill. Thank you.

Sincerely,

PUEBLO OF ACOMA

Stanley Paytiamo,
Governor

SP/GO:gg

cc: Senator Jeff Bingaman
Senator Pete Domenici
Representative Manuel Lujan, Jr.
Representative Joe Skeen

Enclosure: map

The Pueblo of Acoma's Statement of Concerns on the Proposal to Declare El Malpais a National Monument

March 26, 1986

The Pueblo of Acoma people retain vested interest in these lands considered for a national monument. These lands always remain Acoma's aboriginal lands in spite of its designations as Bureau of Land Management land and/or as state school lands. Federal and state laws may take away our lands under newly instituted laws but our people remain intact with the land. As our Acoma elders say, "we are already underneath the land."

We, of course, are always concerned for the economic well-being of our people and we are impacted by high unemployment surrounding our Indian Reservation. We are not against new things because we, also, benefit from jobs created in nearby communities. Any increase in tourism to Grants means more tourists coming to visit and therefore spend money in our villages.

Too, we are aware of significant protection offered to these lands under federal wilderness designation. The lands will be prevented from being further degraded and they will be kept in a pristine condition to the greatest extent possible. Furthermore, we realize that grazing is still permitted, that hunting continues, and that water rights are protected by the proposed legislation. These recognition of existing rights is vital in any new legislation. With these views in mind we make known our position on the status of that land and more specifically our concerns are:

1. El Malpais is adjacent to Acoma deeded lands and we do not want to be constrained in any future development of our private property, whether it be in agriculture, housing, or in recreation. We own 4,348 acres of land next to El Malpais.

2. We are concerned for continued acess to our lands and for any improvements we want to make on those roads and for any improved right of ways we might want to negotiate with BLM and the state of New Mexico.

3. We are most definitely concerned for our water rights, both for our private deeded lands and for the surface and sub-surface waters that reach the Acoma Grant and Indian Reservation. Much of this water originates in El Malpais and we still assert full aboriginal Indian water rights necessary to feed our tribal lands.

4. El Malpais contains religious shrines which we still use today and which, therefore, are protected under the Indian Religious Freedom Act. We are concerned that these sites may be disturbed by increased visitors into this area. Hence, we have never made it public as to the exact locations of these sites. And we find it very upsetting that we have to cross between fence lines in order to reach our prayer sites.

5. Declaring this area as a national monument invites more people to trespass onto nearby tribal landholdings and possibly cause damage to tribal property.

6. Finally, we are always tied to our ancestors and the ruins of our Acoma people remain sacred to us. We are upset when visitors go into those areas and disturb them. Keep in mind we have not abandoned them. They are still our Acoma ruins and we retain those native rights to go back in and protect them for our purposes.

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OFFICE OF THE GOVERNOR
TELEPHONE (505) 552-6606

June 15, 1981

Paul Tanner
Bureau of Land Management
District Office
P.O. Box 1219
Socorro, New Mexico 87801

ATTENTION: Bob Prickett

Dear Mr. Tanner:

Enclosed is our commentary from the Pueblo of Acoma to the Bureau of Land Managements designation of areas suitable for wilderness within Catron and Valencia Counties. The statements made calls your attention to the studies being based on aesthetic qualities of the lands rather than on need.

Thank you for your continued cooperation.

Sincerely,

PUEBLO OF ACOMA

Raymond J. Concho

Raymond J. Concho
Governor

The Pueblo of Acoma's commentary on the Wilderness Study effecting Acoma Lands in the Valencia County

June 11, 1981

The Acoma Tribal Council acting in and for the authority of the people of Acoma have given its position on the proposed wilderness designated areas by the Bureau of Land Management at numerous hearings held for the purpose of soliciting public comments. The governing body of Acoma continues to maintain opposition to designating any areas adjacent to the present reservation or any area which have encompassed tribal aboriginal lands as wilderness more specifically identified as Rim Rock, Little Rim Rock, Sand-Canyon, ~~Pecota~~ Petaca Pinta and the El Malpais.

The tribal governing body recognized under the treaty of Guadulupe Hidalgo and the Indian Orginzation Act of 1934 is representative of a total population of approximately 3,000 people within its jurisdiction. In recognizing this status, the tribal council moves to act in a manner which will benefit its people. Among the most-critical priorities are land, water, education, housing and health. It is with these identified priorities that the governing body submits the following comments.

There is no question that the people of Acoma has held aboriginal title which are now identified by the Bureau of Land Management as suitable for wilderness designation. This aboriginal title was further confirmed by government of Spain under a patent known as a Cruzate Grant of 1689. Through time the tribes right and possession of the aboriginal lands were recognized. It has been only since the frequency of arrivals in the southwest have increased-that the tribe has suffered loss to some land-holdings identified under the Cruzate Grant. This, plus, certain actions of the U.S. Government and certain procedures utilized in confirming the patent to the Pueblo of Acoma enabled this loss. When the Surveyor General of the United States undertook the survey, the tribe was not asked to testify to the actual boundaries which were identified by tribal monuments thereby resulting in the confirmation by the U.S. the incorrect boundaries of the tribe. Since that point in time of the confirmation, by the Government on November 19, 1877, the Acoma tribe have attempted to apprise the U.S. Government of its incorrect confirmation of the boundaries. There was no formal attempts through the executive or legislative branches of the government to correct that survey of 1877. Rather, through subsequent legislative actions, the congress have made some major decisions concerning land through the passage of the Homestead State Act, the Mt. Taylor Grazing Act, the Federal Land Policy and the Management Act, the Land Claims Board Act; and other Acts of May 25, 1918 (40 stat. 570), June 30, 1919 (41 stat. 34), and March 3, 1927 (44 stat. 1347), whereby no lands may be set aside from public domain to create Indian reservation accept by acts of congress. Other executive orders and proclamantions as well as some key court decisions such as the case of U.S. vs. Joseph (99 US. 614), and the case of U.S. vs. Sandoval (231 U.S. 28) muddied land controversy. All these actions which have been initiated through time and which at this point are continously being enacted to the detriment of Indian people, places overwhelming odds against the interests of Indian people to comfortably preserve its integrity.

In considering the process of the wilderness study, we find that the U.S. Government through this action is adversely affecting the future survival and well being of our Acoma people. We find that the study basically calls attention to aesthetic qualities and characters of the lands identified. The things most critical upon which the tribe places high value is on its environment which complements the social, religious and economic aspects of tribal life. Realistically, tribal survival depends on spiritual and physical comfort: both of which are related to the land resources and, above all, water.

It is our concern that the study did not encompass the major resource that aids in the physical survival within this area of the country. With the increasing developments in the western region near Grants and Blue Water, we face a dangerous depletion of water resources suitable for domestic use. Within the boundaries of the Acoma reservation there is identified very little of an adequate water supply. For this purpose, the study and intent is unrealistic based on actual need. If these areas mentioned above are designated as wilderness areas, it leaves no room for the local people to use the wilderness designated areas for water development should the local supply run out in the future. We have been informed by the Bureau of Indian Affairs, as well as in the U.S. geological survey, that the El Malpais area may hold vast amounts of water resources to supplement the now existing supply.

Within the identified area known as Rim Rock and Pecota Pinta, the tribe holds grazing leases from the BLM exclusive Patents to some deeded portions. The major problem with respect to management and control is the lack of jurisdiction the tribal governing body has over the BLM lands. In order to fulfill the provisions of P.L. 93-638, the Indian Self-Determination Act, and P.L. the Indian Reorganization Act of 1934, sections 5 & 7, the tribal council foresees that the only secure way to enhance economic and social self-sufficiency is to remove from public domain the areas leased by the tribe and revert to reservation status.

There is some skeptism and uncertainty over the insured and adequate management of those areas once designated as wilderness. This uncertainty arises as a result of new issues arising throughout the Western States such as "The Sagebrush Rebellion" and the proposed concept of the Block Granting process under the Reagan administration. The Block Granting process takes into consideration the reorganization and restaffing of the Department of Interior. The Secretary of Interior, James Watt, has indicated that the State governments be given primary responsibility over the control of its natural resources. This and the transferance of the National Heritage and Conservation Services to the Forest Services gives us some indication as to what might transpire with respect to BLM in the future. Indian people face many adversaries in this country because within this democratic society, no special interest group can identify with the real needs, character and identity of Indian people. Many times through the motions of the political world, we as the first inhabitants of this area are neglected by the greater society. We do not feel that the designation of Wilderness can aid us as Acoma people in any beneficial manner now or in the future. We urge that this position not accepted as one comment; but rather giving due consideration to the government to government relationship and the number of people that the tribal government is representative of. This information has been presented to our tribal members at various community meetings through the past three years and rest assured that they support our position.

IN REPLY REFER TO

PUEBLO DE ACOMA
"THE SKY CITY"
P. O. Box 309
PUEBLO OF ACOMA, NEW MEXICO 87034

OFFICE OF THE GOVERNOR
TELEPHONE (505) 552-6606

GOVERNOR
Raymond J. Concho, Sr.
FIRST LT. GOVERNOR
Ron D. Martinez
SECOND LT. GOVERNOR
Frank L. Ortiz
FIRST FISCALE
Fermin Martinez
SECOND FISCALE
Harvey Levaldo
THIRD FISCALE
Lawrence Garcia
SECRETARY
Juan S. Juanico
INTERPRETER
Clyde J. Sanchez
TREASURER
Darrell L. Felipe
COUNCILMEN
Diego Valdo, Jr.
Alfred L. Vallo
Paul Histia
Wilbur Chino
Thomas Garcia
Martin Pino
Tom Ortiz
Thomas Vallo
Cyrus Chino
Joe C. Ray
Jimmie Shutiva
Fred Vallo, Sr.
CATTLE OFFICERS
Floyd Lowden
Juanico Sanchez
Melvin Lewis
Emilio Concho, Jr.
Darwin Vallo
Sandy Vallo, Jr.
Marvin Lukee
SHEEP BOSSES ACOMITA
John Jones
Floyd Lowden
SHEEP BOSSES McCARTYS
Isaac Hayah
Fermin Torivio
WATER BOSSES
John Ray Garcia
Lorenzo Sarracino
Joe Valdo
Joe Pancho
Lorenzo Chavez
David Musseau
Clifford Pasqual

RESOLUTION NO. TC-JUN-25-79B

COMMENTARY SUBMITTED BY THE PUEBLO OF ACOMA TO THE EL MALPAIS PROPOSED WILDERNESS STUDY.

At a duly called meeting of the Tribal Council of the Pueblo of Acoma held on the 25th day of June 1979, the following resolution was adopted:

WHEREAS:

SEC. NO. 1 The Tribal Council of the Pueblo of Acoma acting in and for the authority of the Pueblo of Acoma respectfully submit our opposition to the El Malpais Area being designated as a Wilderness Study; and

SEC. NO. 2 Certain lands adjacent to the Eastern boundary of the Proposed Wilderness have been acquired by the Tribe; however, there may be discrepancies to the exact boundaries outlining the acquired area as it coincides with the proposed area. These areas need clear identification as to the boundaries; and

SEC. NO. 3 There is not sufficient historical and legal background information to the appropriateness on "change of hands" of this proposed wilderness area: a question of the Tribe's aboriginal Rights to Sacred Areas within the area exists. Indian claim to land can only be done by an Act of Congress which impedes the Tribe's desire to acquire these lands for social and/or economic uses; and

SEC. NO. 4 The Bureau of Land Management has not specifically identified mineral ownership to several sections of land. The Tribe has shown interest in acquiring different sections in fee title within the proposed wilderness area; and

SEC. NO. 5 Legislative action as such has a strifling effect on the Tribe. Designating the area as wilderness opens up unintended unselective encroachments by people to the area instead of effectuating safeguards; and

SEC. NO. 6 The proposal impacts both the social and economic benefits which should be reserved to those at a local level. The Government devises such proposals or reglations without regional considerations; and

SEC. NO. 7 The proposal does not consider the management capability of BLM to regulate the proposed wilderness area:

a. A feasibility of providing additional protection and safe keeping of the proposed area.

b. The Bureau of Land Management has sufficient information regarding actual status of the proposed wilderness land.

In reference to these areas there are insufficient personnel to render services; and

SEC. NO. 8 The Tribe feels that designating reservation status or putting certain areas in trust for the Tribe might be a suitable way to preserving the characteristic wilderness land.

NOW THEREFORE BE IT RESOLVED:

That the Acoma Tribal Council establishes its position to the El Malpais Area being designated wilderness lands: and

FURTHER, we object to all other proposed wilderness lands which have been or will be designated on or near Acoma lands.

Governor, Pueblo of Acoma

1st. Lieutenant Governor

Frank L. Ortiz
2nd Lieutenant Governor

Diego Vallo Jr
Head Councilman

Joe C. Ray
Councilman

Thomas Garcia
Councilman

Martin W. Tsiw
Councilman

James L. Shutiva
Councilman

ATTEST:

Juana S. Juanico
Tribal Secretary

CERTIFICATION

I, the undersigned as Governor of the Pueblo of Acoma, "Sky City," hereby certify that the Acoma Tribal Council at a duly called meeting of the Tribal Council and the People of Acoma, convened and held on the 25th day of June 1979, at Acoma Pueblo New Mexico, approved this Resolution, a quorum being present, and that 8 voted for and 0 opposed.

Governor, Pueblo of Acoma

ATTEST:

Tribal Secretary

The Pueblo of Acoma's Position on the legislation to establish the El Malpais National Monument and the Grants National Conservation Area

We oppose the congressional legislation, H.R. 403/S.R. 56, intended to establish El Malpais as a National Monument and to establish the Grants National Conservation Area. These proposals conflict with our rightful immemorial rights to that particular area. All of this land, that archeologists and anthropologists refer to as the Acoma Province, is the homeland of our ancestors. We are the direct descendants of the people whose ruins are spread across this land, from the northside of Mt. Taylor and down to Alamocita Creek on the southside.

Public laws have not all been favorable to the Acoma people. We have lost lands through public land laws. Acomas and historians knew the Acoma Grant was erroneously surveyed, in 1876 *and* in 1877. Historical documents describe that Ojo del Gallo by present day San Rafael was located on the western boundary of the Acoma Grant. In the first survey, this spring was correctly identified and marked accordingly on the U.S. Deputy Surveyor-General's plat drawn for the Pueblo of Acoma Grant. There is even still inscribed on La Vieja butte: Acoma Grant SW 1876. Ultimately we lost these lands between Grants and Horace Springs.

Three major times, federal actions have wronged us over these same lands now being considered as a national monument and conservation area. One, by the erroneous survey and when the General Land Office decided not to correct the mistakes by the Surveyor-General. Even after hearings were held on the matter of the surveys. Two, when the Act of August 13, 1949, 63 Stat. 604, failed to include all of the Acoma Purchase lands in trust for the Pueblo of Acoma. This area shown on maps of that period as the Acoma Purchase Area is known to Acomas as the Eleven Township. Older Acomas state that the southern reservation boundary was to have been fenced west to Range Twelve West, then northward one township and east to Range Eleven West, and then north to Township Nine North. Most of this land is within the Rimrock Wilderness Study Area. Three, the federal government removed these lands further out of Acoma hands when the case of *Pueblo de Acoma vs. the United States of America*, Docket 266, before the

Indian Claims Commission, refused to decide how tribal lands were first erroneously surveyed by the federal government.

Injustice continues to prevail over the Acoma people. Declaration of lands east of State Road 117 as a national conservation area impedes our efforts to regain rightful ownership to those lands.

For the last several years we have been purchasing lands in this area. At the present time we own 4,056 acres within the area considered for the national monument-conservation area. We are buying back our aboriginal lands at more than market prices.

Additionally, we control over 17,800 acres of land under Bureau of Land Management leases, mostly east of State Road 117 and within the proposed conservation area, but part of our grazing leases extend into the land considered for the national monument. We further realize there are steps to exchange state and federal lands, which means more grazing lands will be administered for us by the Bureau of Land Management.

We want all of these lands now within our use to come back to as trust land for the Pueblo of Acoma. It is only right that this should be done. We are not taking away any privately owned lands. We ask only a just return of these lands which the federal government took from us.

We thus speak plainly and frankly. Our lands in this area were stolen from us. We want the land back.

We reaffirm our previous recommendations made to Representative Bill Richardson:

1. El Malpais National Monument's east boundary must not be the same as the Acoma Indian Reservation.

2. The east boundary of El Malpais National Monument should be State Road 117 and on the westside of all Acoma lands.

3. We oppose the Wilderness Study Areas affecting our lands--Rimrock WSA and Petaca Pinta WSA.

And, we add. We oppose the Grants National Conservation Area designation.

A Compilation of Selected Papers Showing Acoma Rights to Lands Within the Proposed El Malpais National Monument and Grants National Conservation Area--Why We Oppose the Legislation and Why the Lands in the Conservation Area Must Instead be Placed Into Trust for the Pueblo of Acoma People

These lands proposed for new federal designations are the aboriginal lands of the Acoma people. Since the nineteenth century American laws have taken most of our tribal lands. Early federal surveys of the Acoma Grant were erroneous. Our people protested immediately and a chain of complaints ensued over the years. The federal government refused to correct its survey errors. However, by federal purchases, through congressional action, and by executive order, the United States government proceeded to return some lands to the Pueblo of Acoma. Too, we, ourselves, have been reacquiring lost lands through private purchases. Our goal has always been to regain lands lost on the westside of the Acoma Grant.

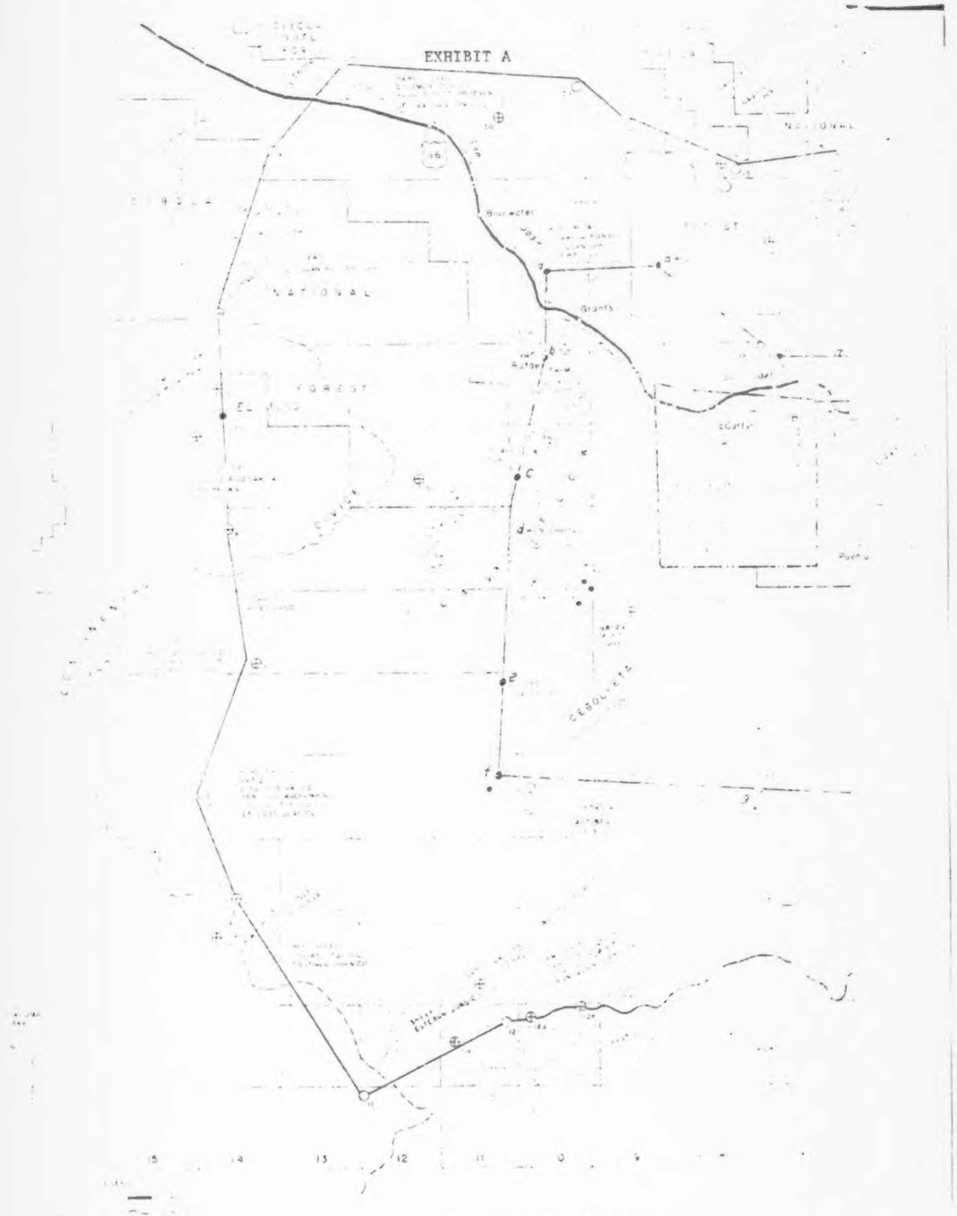
The following papers labeled as exhibits show the extent of Acoma claims to the lands being considered in H.R. 403 and S.R. 56. They tell only the partial story of how the Acoma people lost the lands to the west of its present Grant. These exhibits clearly show the Pueblo's rightful claims to lands that are now under consideration for a monument-conservation area.

EXHIBIT A

This map shows the area of aboriginal lands claimed and proven by the Pueblo of Acoma, in Docket 266, Pueblo de Acoma vs. United States of America. The Acomas proved immemorial usages and possession to two areas of land--one, the larger encircled area, which is numbered on the map, and, two, to the area which is designated by letters. All of the land in the smaller enclosed area is within the proposed National Monument and National Conservation Area.

Source: Pueblo Indians V: Commission Findings on the Pueblo Indians (Garland Publishing Inc., New York and London: 1970), opposite page 258.

EXHIBIT A


CIBOLA
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CEBOLLETA
Pueblo
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PUEBLO OF ACOMA - RECENT LAND

EXHIBIT B

This copy of consolidated survey plats shows how the Acoma Grant was surveyed, in 1876 (triangular shaped) and again in 1877 (rectangular shaped). Ojo del Gallo at San Rafael was correctly located on the ground and indicated accurately on the plat for the first survey. La Vieja, a hugh rock formation to the south, was chosen to be the southwest call and inscription chiseled on the northface of the rock: Acoma Grant SW 1876. This marking is still distinct today. The second survey used springs to the east of San Rafael for Ojo del Gallo. The 1877 survey was approved by the federal government.

Source: Pueblo de Acoma vs. United States of America, Docket 266, Defendant's Exhibit No. 90C-Rands Report, Map #3. Copy in the Pueblo of Acoma Archives.

EXHIBIT B

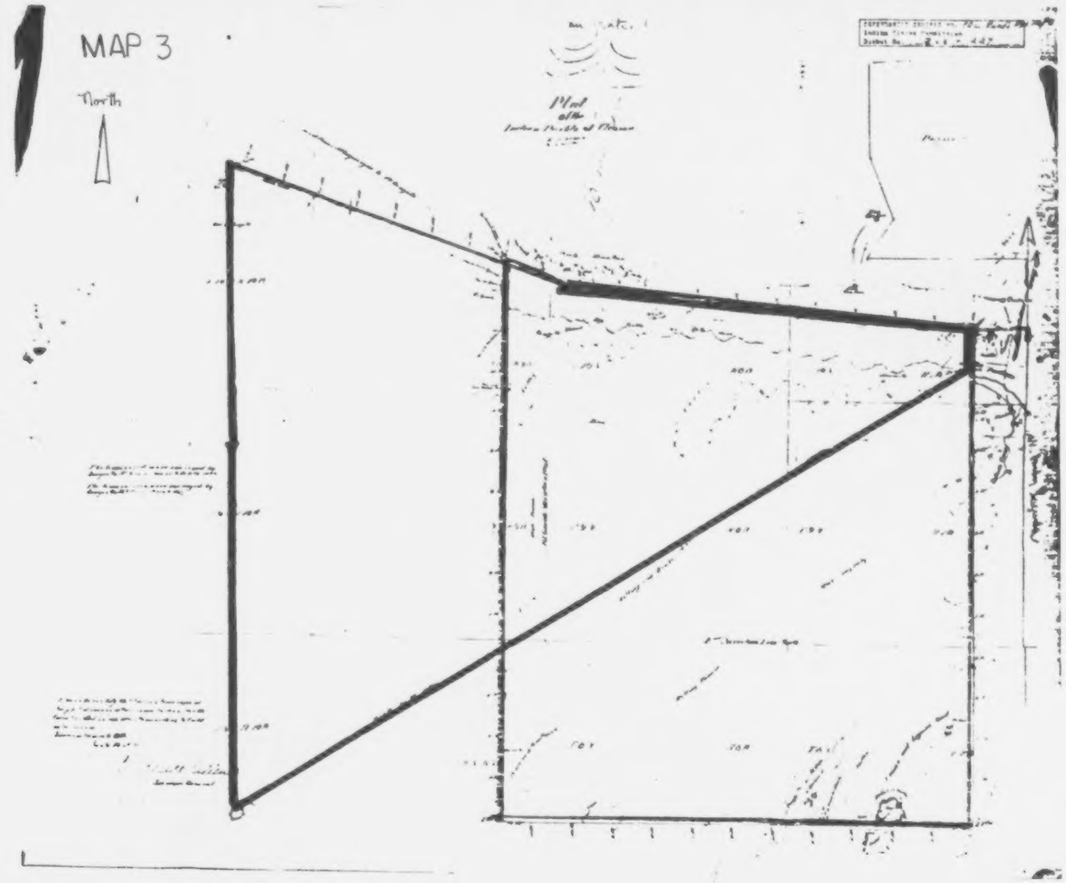

EXHIBIT C

This is a reduced reproduction of a map which was drawn by the U.S. Army Corps of Engineers, from field surveys done during 1873-1878. The map shows Ojo del Gallo to be located on the westside of El Malpais lava flow.

Source: Pueblo de Acoma vs. United States of America, Docket 266, Defendant's Exhibit No. 90B-Rands Report, Map #2. Photostatic copy in the Pueblo of Acoma Archives.

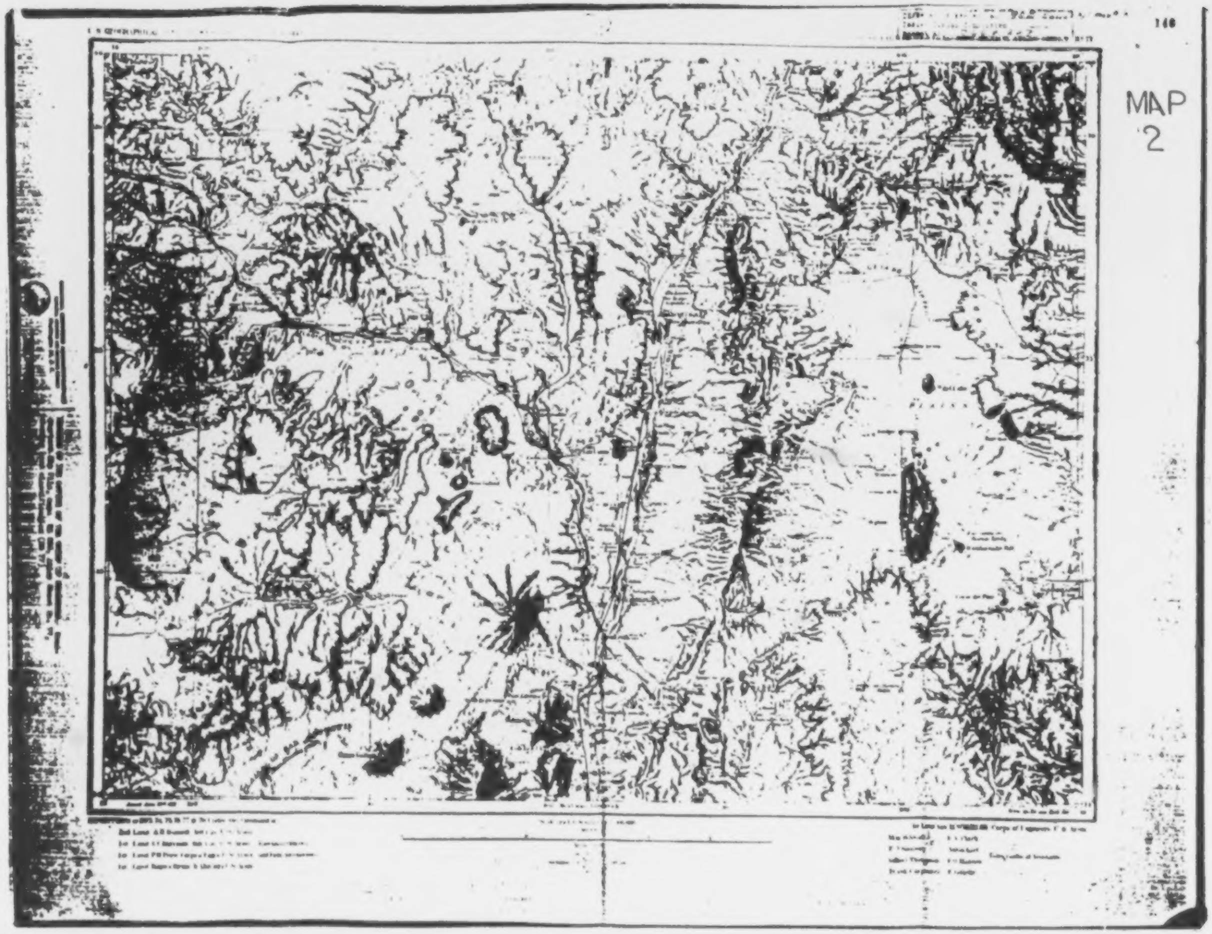
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EXHIBIT D

Letter of Ben M. Thomas, Indian Agent, to Honorable J.B. Smith, Commissioner of Indian Affairs, dated July 9, 1877. While the Indian Agent knew the Acomas "would be defrauded of a valuable portion of their Grant--the old Fort Wingate site," nonetheless he recommended the survey be approved.

Source: Copy from the National Archives, Washington, D.C.: Record Group 75. Copy in the Pueblo of Acoma Archives.

Territory of New Mexico
Santa Fe, July 9th, 1877

EXHIBIT D

Hon. J. B. Smith
Commissioner,
Washington, D.C.

Sir:

I have the honor to refer to my Monthly Report for April 1877, and to respectfully submit the following further report on the subject of the Acoma and Laguna land contest.

The papers pertaining to the second survey of the Land Grant of the Pueblo of Acoma have been completed by the Surveyor General of New Mexico, and are now being forwarded by that Officer, with his approval, to Washington. While I am firmly of the opinion that the Acoma Indians would be defrauded of a valuable portion their Grant - the Old Fort Wingate site - should a patent issue on the basis of this last survey, I nevertheless recommend that the survey be approved as it is and a patent issued on that basis as soon as possible for the following reasons, viz:

1st The two Pueblos - Acoma and Laguna have been fighting for a great many years on account of the dividing line between the two, and the fight is certain to continue until a patent is issued for one or both the grants.

2nd The Acomas have only themselves to blame for the loss of the Old Fort Wingate district, because they falsely swore it away for a consideration.

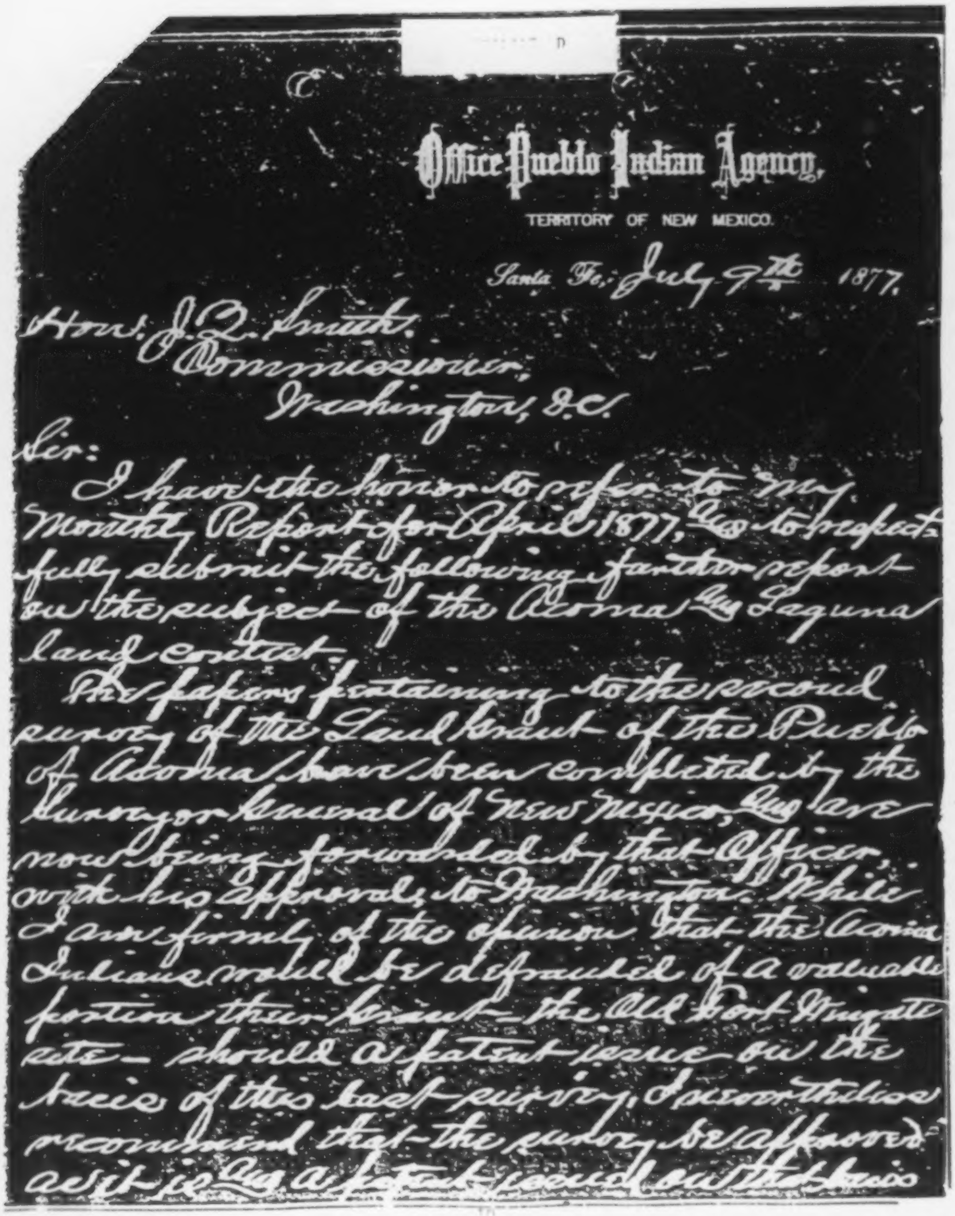
3rd A project should not be entertained to reimburse the Acomas from the Laguna lands for that which they saw fit to bestow upon settlers by perjury.

4th There is no dissatisfaction on the part of the U. S. Officials, who can only be interested in the equity of the case, with the present survey in respect of its bearing upon the two Pueblos interested.

I respectfully urge the importance of so representing this matter before the proper Officer as to meet the anticipated representations of interested settlers at Old Fort Wingate.

Very respectfully,
Your Obdt. Servt.
Ben. M. Thomas
U. S. Ind. Agent

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 75



Office Pueblo Indian Agency,
TERRITORY OF NEW MEXICO.

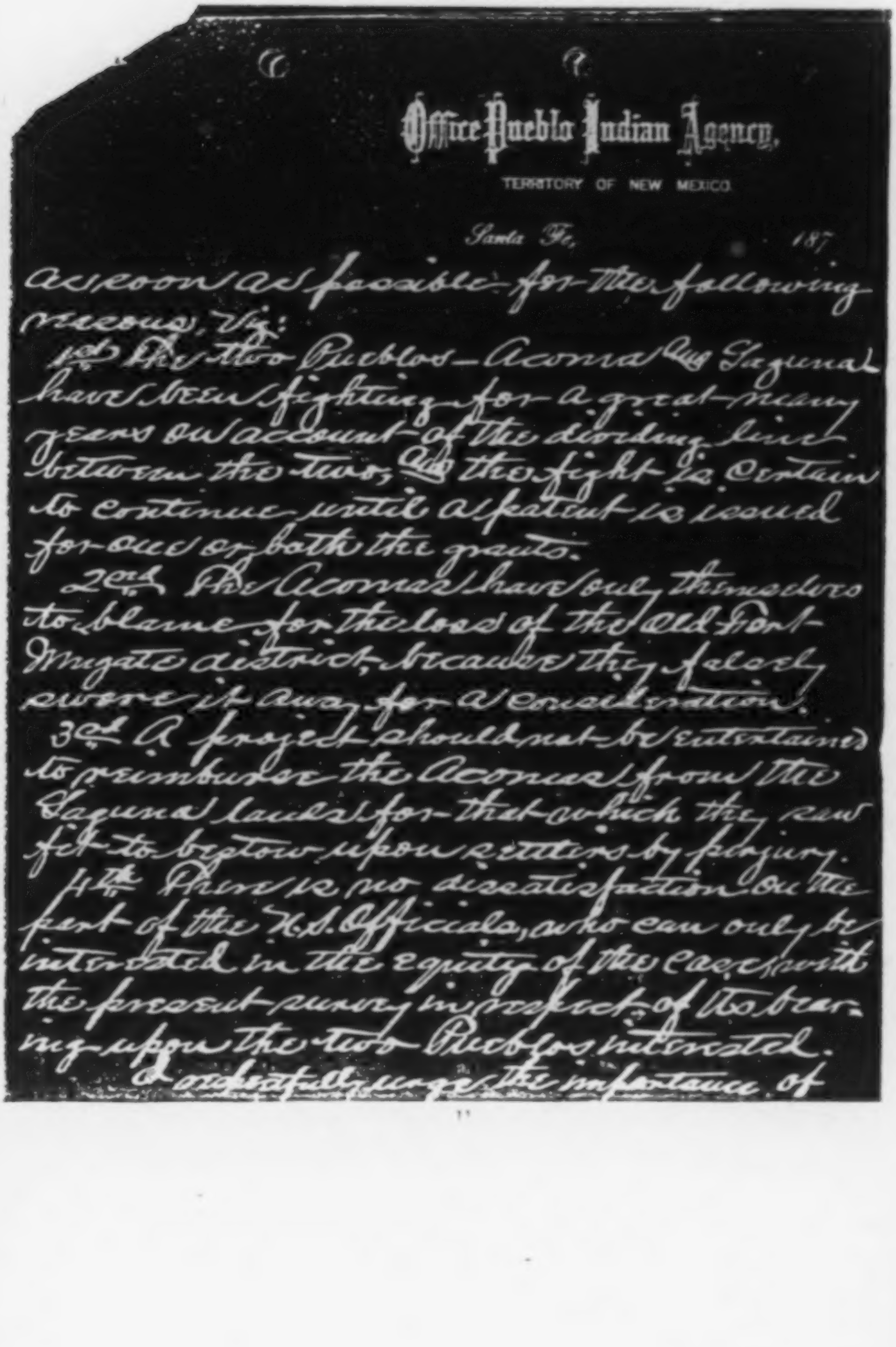
Santa Fe; July 9th 1877.

Hon. J. Q. Smith.
Commissioner,
Washington, D.C.

Sir:

I have the honor to refer to my Monthly Report for April 1877, and to respectfully submit the following further report on the subject of the Acoma and Laguna land contest.

The papers pertaining to the second survey of the Land Grant of the Pueblo of Acoma have been completed by the Surveyor General of New Mexico, and are now being forwarded by that Officer, with his approval, to Washington. While I am firmly of the opinion that the Acoma Indians would be defrauded of a valuable portion their Grant — the Old Fort Wingate site — should a patent issue on the basis of this last survey, I nevertheless recommend that the survey be approved as it is, and a patent issued on that basis



Office Pueblo Indian Agency,
TERRITORY OF NEW MEXICO.

Santa Fe, 187

as soon as feasible for the following reasons, Viz:

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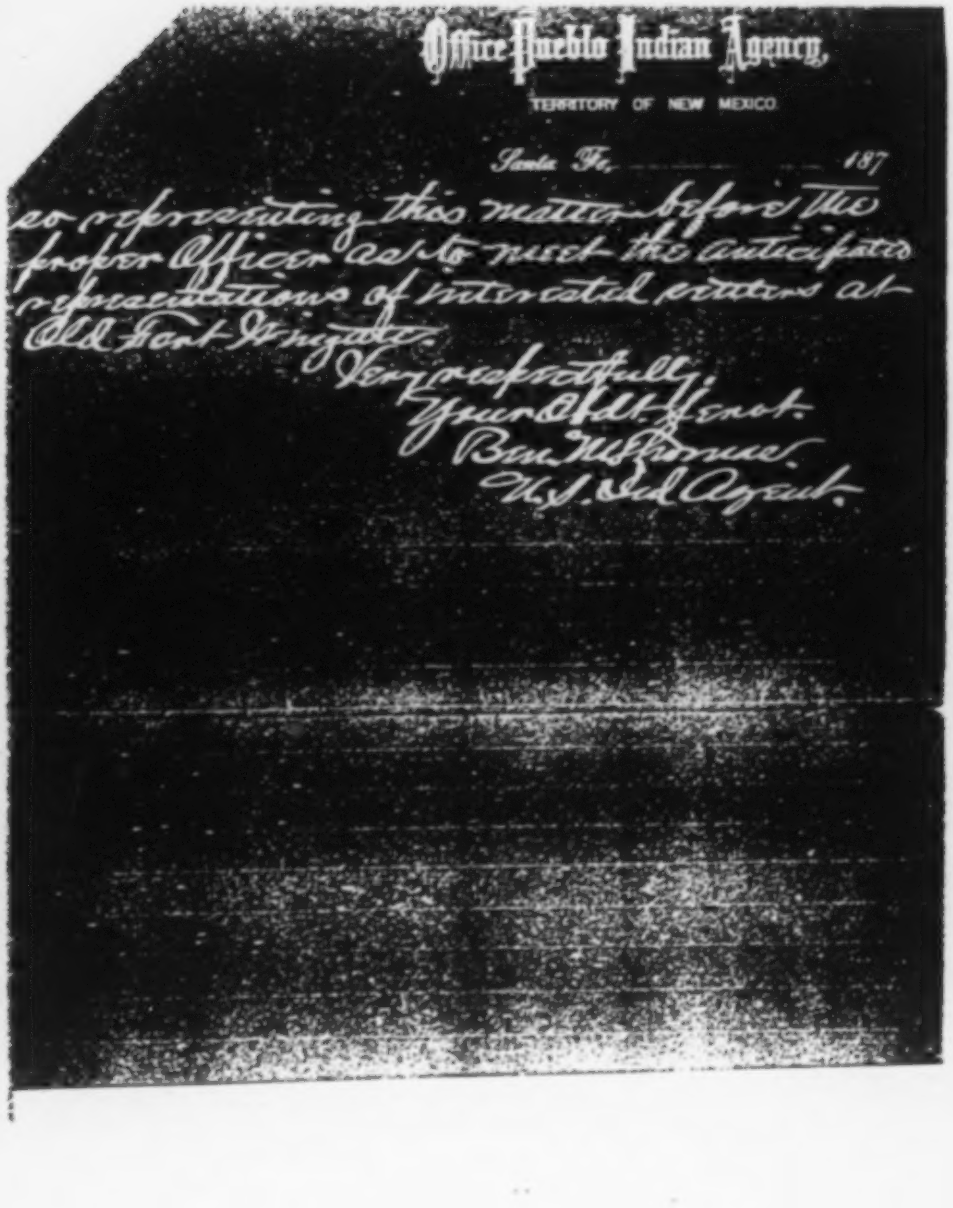
2nd The Acomas have only themselves to blame for the loss of the Old Fort Wingate district, because they falsely swore it away for a consideration.

3rd A project should not be entertained to reimburse the Acomas from the Laguna lands for that which they saw fit to bestow upon settlers by perjury.

4th There is no dissatisfaction on the part of the U.S. Officials, who can only be interested in the equity of the case, with the present survey in respect of its bearing upon the two Pueblos interested.

I respectfully urge the importance of



Office Pueblo Indian Agency,
TERRITORY OF NEW MEXICO.

Santa Fe, ________ 187

so representing this matter before the proper Officer as to meet the anticipated representations of interested settlers at Old Fort Wingate.

Very respectfully
Your Obdt. Servt.
Ben. M. Thomas.
U.S. Ind Agent.

EXHIBIT E

Report of Ben M. Thomas, Indian Agent, to the Commissioner of Indian Affairs, dated August 20, 1877, which mentions the first survey and of the difficulties that arose because the settlers wanted to stay at Old Fort Wingate. He tells that the second survey had been completed.

Source: *Annual Report of the Secretary of the Interior*, for the Fiscal Year Ended June 30, 1877 (Washington, D.C.: GPO 1877), page 557.

EXHIBIT E

ANNUAL REPORT

OF THE

SECRETARY OF THE INTERIOR

ON THE

OPERATIONS OF THE DEPARTMENT

FOR THE

FISCAL YEAR ENDED JUNE 30, 1877.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1877.

NAVAJO INDIAN AGENCY,
Fort Defiance, Ariz., September 4, 1877.

SIR: I have the honor to submit the following report upon the condition of the *Moqui Pueblos* during the past year:

My first visit was made to the villages, which are distant 92 miles from this agency, during the month of November, 1876, when I found them in a prosperous condition with plenty of provisions for the coming winter, principally corn, which is their staple article of diet; also dried rabbits, melons, and peaches. They were poorly provided with animal food, and I found it to be their practice to turn out simultaneously every man in the several villages for organized hunts over large tracts of country; the only game secured on these hunts are rabbits, which are skillfully decapitated by a crooked stick thrown from the hand after the fashion of the Australian boomerang. The rabbits killed are of two varieties: the common cotton-tail and the jack rabbit, so called on account of its long ears and superior size, often weighing 10 or 12 pounds, and is probably the hare and no rabbit. The carcasses are skinned and dried, to be used when required, while the skins are cut into strips and woven, with woolen warp, into blankets, after the manner of the Navajo blanket, and are both soft and warm. It is customary for the children to go completely naked until they are six or seven years of age, except in exceedingly cold weather, when they sometimes wrap a blanket round them. They, however, make a practice of washing the children winter mornings in cold water or snow, and then letting them hunt the sunny side of a rock or wall to thaw out.

Their houses are warm, most of the rooms being entered from the top, and no provision being made for ventilation. They are built of stone, sometimes three or four stories high, and located on the bleak, bare summits of high sandstone mesas. The greatest drawback to their location is the scarcity of wood and water, the former being brought about 15 miles and the latter 2 miles.

The country occupied by the Moquis is barren and unfit for agricultural purposes, barely fit for grazing. Still, the Moquis manage to gain a subsistence. They plant their corn deep in the sand, and it matures on an average three years out of five; they always retain in their granaries one year's provision ahead of the growing crop, so never suffer unless two crops in succession fail. They are much attached to their homes and dislike the idea of removal. They, however, are not ignorant of the advantages of other locations, several of their number last year going as far as San Bernardino and Santa Barbara, California.

During May, 1877, an issue of goods for clothing was made to six villages and one family of the Orribies.

The only recommendations that I would make would be to furnish them with a school-teacher, which they are anxious to have with them. Let him have sole charge of them, and have the distribution of any articles of clothing which may be provided, that he may give the same in the form of rewards to the children. It will encourage the children in efforts for advancement, and the teacher will be better able to control them. The Moquis will in that way receive the greatest benefit from the clothing, and the fact must not be lost sight of that Indians must receive some sort of an inducement to attend school, as they do not appreciate the necessity of an education.

I do not consider it advisable to issue clothing in large quantities, but only sufficient to supply their bare necessities. It is best to let them rely upon their own resources and industry for support, and only extend help when they fail.

Their numbers are as follows:

No.	Name of village.	Men.	Women.	Boys.	Girls.	Total.
1	Tegua	44	31	24	31	130
2	She-chom-a-vay	38	33	16	21	108
3	Wall-a-pi	92	79	52	41	264
4	Mae-sung-ne-vay	67	65	57	52	241
5	Shu-pa-la-vay	33	31	27	21	112
6	Shu-mo-pa-vay	59	56	38	31	184
	Total	333	295	214	197	1,039

The first three villages are upon the first or eastern mesa; the next three are upon another mesa 7 miles distant; the Orribies are 25 miles beyond the last mentioned; they declined a count of themselves, consequently I can give no information concerning their numbers.

The Mormons are settling among them, and I found one of their children, a boy, and rather a bright one, living with the She-chom-a-vays, learning the Moquis language.

In conclusion, I would recommend that a reservation be surveyed and set apart for their use. They are liable to have settlers upon their lands at any time, and they would then, indeed, become a burden upon the Government.

Very respectfully, your obedient servant,

ALEX. G. IRVINE,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

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OFFICE OF PUEBLO INDIAN AGENCY,
Santa Fé, N. Mex., August 20, 1877.

SIR: I have the honor to submit hereby my 6th annual report as United States Indian agent.

The *Pueblo* Indians are supposed to be the remnant of the once powerful Aztec race. They number at present about 10,000; 8,400 of these, living in nineteen villages, constitute the "Pueblo agency" of New Mexico, and 1,600 the "Moqui Pueblo agency" of Arizona. The present name of these Indians is derived from the fact that they live in villages—*pueblo* being the Spanish for village or town. It is impossible to ascertain definitely, by comparing the population of one year with that of the next, whether the Pueblos are increasing or diminishing, because it is impossible to ascertain the numbers exactly; but, judging from the fact that one of the pueblos lately gave up its separate existence, and several more are evidently much smaller than they were a number of years ago, we are forced to the conclusion that they are slowly decreasing. They are a law-abiding, peace-loving, industrious, reliable people, possessing much of the best land in the Territory; and why they should gradually disappear like the nomadic and war-like tribes, is a question not easily solved except by the hypothesis that their time has come.

The Pueblos sustain themselves, with very little material aid from the Government, by farming, fruit-raising, stock-raising, wool-growing, making pottery, (for which they are somewhat famous,) and hunting. All their work, farming, weaving, pottery-making, &c., is done with the rudest implements; but in this respect they are nearly as well off as the general population of the Territory, which is called civilized.

The duties of the United States agent for the Pueblos consist of establishing and supervising schools, protecting the Indians as against citizens, procuring the survey of their lands, and perfecting their land-titles, &c. In the year under report there have been six Government schools in operation; but only five at any one time, except during one month, with six teachers, and an attendance of about 155 pupils. The advancement made at most of the schools has been fair; but the success attending the efforts to educate the Indians in day-schools has not been as complete as could be desired on account of the irregularity in attendance, and also on account of the children generally being taken out of school to work as soon as they are able to read and write, and often before.

The school at the pueblo of Laguna, which was placed upon a permanent basis last year by the guarantees of the board of missions of the Presbyterian Church, is now the most flourishing. The teacher has lately added a printing-press to his other appliances for helping the Indians, and is now printing lesson-cards, &c., in both the English and Indian languages. The average attendance at this school has been nearly 50, and nearly the whole population attend Sabbath service, more than filling the house. Arrangements have now been completed for another school, to be established upon the same basis, at the pueblo of Zuni, with Rev. Henry K. Palmer, M. D., and his wife as teachers. They are to start sometime this month from Colorado for their new home, where they will doubtless be well received by the Indians.

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The lands of four of the pueblos have been surveyed during the year, and additional land has been set apart by Executive order as a reservation for the Indians of the pueblo of Zuni. Suit was brought and gained by the pueblo of Jemes, in the last term of court at Santa Fé, for the ejectment of settlers from their land. This success of the Indians, together with the fact that the United States district attorney is authorized to appear for the Pueblos in all similar suits, has had a good effect.

According to the survey of the lands of the pueblo of Acoma, which was first made last September, the site of old Fort Wingate belonged to the Indians. This survey was contested before the surveyor-general of New Mexico, by settlers desirous of owning that valuable tract; and by promising the Indians that they would procure for them a certain tract which was ascertained to be on the Laguna Indians' side of the line, and which the Acomas desired very much to retain, they procured testimony which set aside the survey. A second survey has been made which, it is threatened, is to be the cause of further litigation by reason of the promise of the old Fort Wingate settlers that the Acomas should have part of the Laguna lands for their service in swearing away their own. On account of the same promise, I am led to believe, the Acomas first undertook to hold possession of the desired land by force, and but for the timely interposition of the agent an ugly fight between the Acomas and Lagunas would have ensued. With the help of a detachment of cavalry from Fort Wingate I placed the Lagunas in possession of the land without trouble, and then started to Santa Fé with the Acoma officers as prisoners. After the first day's march they concluded that they had been misguided by their friends (?) and expressed a desire to respect the survey in the future. After taking their written agreement to that effect I released them, and there has been no actual trouble since, but much threatened.

The Indians of all the pueblos seem to be in a prosperous condition except those of Taos, San Juan, Santa Clara, and San Ildefonso, whose growing crops of wheat and corn were largely destroyed by grasshoppers early in the season. It is feared that some of these, if not all, will require assistance before another crop can be raised.

By direction of the honorable Commissioner of Indian Affairs, I took charge of the Cimarron agency, New Mexico, on the 1st of October, 1876. The Indians of that agency num-

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ber 719; of this number 307 are Muache Utes, and 412 are Jicarilla Apaches. They are all vagabonds, and there is no hope of improving their condition as long as they remain at their present location, and they will not go elsewhere until they are compelled to by a large military force. They do nothing for their own support except a little hunting. The Government gives them a little clothing and other presents and issues them weekly rations of beef and flour. They have no reservation where they are, and the agency is located in a small county-town where the Indians can usually procure all the whisky they can pay for. The agency has been a success during the year, in that it has kept the Indians quiet, and so protected the settlers in person and property at the least possible cost.

In May last, by direction of the honorable Commissioner, I assisted Agent F. H. Weaver in selecting a location for the "Southern Ute agency," Colorado, about to be established. If that agency proves to be a success, it will be the proper place for the Utes of Cimarron, as the Mescalero Apache agency, New Mexico, is the proper place for the Cimarron Apaches.

It is hoped that in time there may arise a favorable opportunity for so disposing of the Cimarron agency.

Very respectfully, your obedient servant,

BEN. M. THOMAS,
United States Indian Agent, Pueblo and Cimarron Agencies.

The COMMISSIONER OF INDIAN AFFAIRS.

SOUTHERN APACHE INDIAN AGENCY,
Ojo Caliente, N. Mex., August 10, 1877.

SIR: In compliance with instructions of July 10, 1877, I have the honor to submit the following report:

In entering upon the discharge of my duties October 16, 1876, as agent of the *Southern Apache* Indians, I found them idle and dissolute in their habits, strongly opposed to any beneficial labor, and impatient of restraint in any form; addicted, also, to the use of intoxicating liquors, "tiswin," which they manufacture from corn, and whisky obtained from traders, which is the cause of frequent bloody encounters among themselves. To cut off this supply as far as practicable, the issue of corn was discontinued, and the issue of beef on the block substituted for the issue of cattle on the hoof, which the Indians have frequently driven away and sold for corn or whisky, preferring to suffer hunger rather than thirst. Although the above measures were in a degree effective, yet so strong was the desire for liquors that many still continued to trade their rations for corn or whisky, and as no Indian could be induced to inform of whom he obtained these articles, it was, with the means at my command, impossible to entirely suppress the traffic.

The sanitary condition of the Indians has been good, notwithstanding considerable suffering and discontent was caused during the cold weather on account of the usual annual supply of blankets and clothing not having been received.

During the months of March and April, after much persuasion, quite a number of Indians were induced to commence farming operations, taking out irrigating ditches, &c., and though they did not show as much industry as could have been wished, still, considering their reputation and habits of idleness, the result was encouraging.

On the 30th of April and 1st of May, 1877, [illegible] of these Indians were removed, by Agent J. P. Clum, to the San Carlos reservation in Arizona, a full report of which was forwarded at the time. The above number includes all the Indians who did not leave this reservation on the arrival of Apache scouts from San Carlos and United States troops to effect their removal.

Very respectfully,

JAMES DAVIS,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

UNITED STATES AGENCY FOR INDIANS OF NEW YORK,
Forestville, N. Y., [illegible] 9, 1877.

SIR: In making my eighth annual report, I have the honor to state that there have been 31 schools in the agency, taught the average period of eight months, during the school year ending the 30th day of September last. The number of Indian children between the ages of five and twenty-one years, residing upon eight reservations in the agency, is reported at 1,645, of which 1,246 are registered as having attended school some portion of the year. The average daily attendance during the eight months the schools were taught was 621. The

EXHIBIT F

Letter from Governor San Juan Bautista to the Honorable H. H. Eddy, dated August 19, 1883, complaining of the erroneous surveys and requesting they be corrected.

Source: Pueblo de Acoma vs. United States of America, Docket 266, Defendant's Exhibit No. 54. Copy in the Pueblo of Acoma Archives.

EXHIBIT F

Pueblo de Acoma N. M.
Aug. 19. 1883

Hon. H. H. Eddy.

Sir!

Being informed that you are an Agent of the United States and that you have come here to New Mexico to examine lands and to have justice done to those who deserve it we humbly appear before you, and represent as follows, That for hundreds of years we the people of Acoma Pueblo have been the owners of a certain tract of land described in the title papers that we hold from the Spanish Government. That our boundaries are very well known natural objects, That the North boundary of our Grant is the Cerro Prieto, the south boundary el Peñol, the west boundary el Ojo del Gallo △ That the Government has had our land surveyed some years ago and that the survey is erroneous in as much as it does not embrace all our land the line as surveyed on the west did not go near the Gallo Spring; the line on the north was not established at Cerro Prieto but at some other cerro.

We most respectfully beg that you

examine our land, and report to the Government the great injustice that has been done to us and have it corrected in some way that we may receive justice. We are poor people and very ignorant and if the government does not pity us than we will have to suffer in silence; but we pray that justice may be done to us, we ask nothing more Your obedient servants

San Juan his x mark Bautista
gobernador
Andres his + mark Ortis, Interpreter
Jose Miguel his + mark Chino Interpreter
Napoleon his + mark Pancho
Martin his + mark Valle
Jose his + mark Berendo
Toribio his + mark Aragon - sherif
Viejo his + mark Garcia

witnesses
Salomon Bibo
Emil Bibo

EXHIBIT G

Letter from H. Price, Commissioner of Indian Affairs, to the Secretary of Interior, dated February 19, 1884. The Commissioner discusses problems associated with the two surveys and he writes, on page three, "that there is some real ground for complaint on the part of the Acoma Pueblo Indians," and that the second survey did not include all of Acoma lands.

Source: Pueblo de Acoma vs. United States of America, Docket 266, Defendant's Exhibit No. 52. Copy in the Pueblo of Acoma Archives.

EXHIBIT G

(COPY)

Refer in reply to the following:

L A N D,

35-1884,

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, D.C. February 19, 1884.

The Honorable,
The Secretary of the Interior.

Sir :-

I have the honor to return herewith, letter of the Commissioner of the General Land Office, dated November 3, 1883, and accompanying papers (received by your reference of the 31st December last), relative to an alleged error in the official survey of the outboundaries of the Pueblo of Acoma, in New Mexico.

The allegation is made by the Indians of the Pueblo, who claim that it does not embrace all of the lands covered by their land claim confirmed to them by act of Congress approved December 22, 1858, (Stat. 11, p 374).

The Department having suggested to the General Land Office that "an examination ought to be made at once, and if the survey is wrong it ought to be corrected," that office it appears has thought best before taking action relative to the investigation suggested to re-submit the case to the Department with a statement of facts not before presented.

DEFENDANT'S EXHIBIT NO. 52
Indian Claims Commission
Docket No. 266 and 227

It would appear from the petition of the Indians that it is the western and northern boundary of the Acoma grant about which they are concerned, no complaint nor mention being made by them in respect of the eastern boundary, over which they disputed and quarreled with the Indians of the neighboring pueblo of Laguna for nearly a quarter of a century.

It appears that there were two official surveys of the grant made, one in September 1876, and the other in March 1877.

By the first survey the site of old Fort Wingate was included in the Acoma grant. The correctness of the survey was disputed however, by the settlers at Wingate, which resulted in a contest before the Surveyor General of New Mexico. By promising the Acoma Indians that they would procure for them certain territory from the Lagunas on the east which they greatly desired to possess they obtained from the Acomas evidence sufficient to set aside the survey. A second survey was made which established the line where it is shown on the diagram and map furnished by the General Land Office, herewith.

I enclose herewith an extract from the annual report of Agent Thomas of the Pueblo Agency, for the year 1877, (see annual report this office for 1877, p 161), together with two affidavits which accompanied his monthly report for April 1877. It is from these and other papers at hand that the foregoing facts have been gathered.

The evidence would seem to indicate that there is some real ground for complaint on the part of the Acoma Pueblo Indians. That the loss of territory on the north and west was due to acts of wilful perjury on the part of some of the Indians of the Pueblo is quite evident, but the whole people ought not to be made to suffer on account of the bad acts of a few. The statements of Bartolome de Ojeda, made to "His Excellency Don Domingo Tironza Petros de Cruzate, Governor and Captain General" in 1689, (see page 4, General Land Office letter herewith) and of the present petitioners agree as regards the northern, southern and western boundaries.

The former says "the Prieto Mountain is to the north, and the Gallo spring is to the west," and it appears that his description being the only known description of the boundary of the Pueblo, was followed in the official survey thereof. The petitioners say that "the north boundary of our (their) grant is the Somo Prieto, ... the west boundary el Ojo del Gallo."

The General Land Office makes no mention of the first survey of the western line referred to by Agent Thomas as having been made in September 1876.—— In all likelihood, the Surveyor General did not make returns of the survey until after the line had been re-run in March 1877 ——; but presuming that Agent Thomas is correct, and I see no reason to doubt his statements, the fact that the first survey took in the site of Fort Wingate makes it pretty clear to my mind that the existing lines, established by the second survey through misrepresentation and false swearing on the part of some of the Indians, do not embrace all the lands that should be included if the natural objects before mentioned "the only known description of the boundary of the Pueblo" are to be the governing points on the north and west.

The map shows plainly enough that the existing lines do not extend to the "Gallo Spring."

If it should be decided to reopen this case and examine into the matter of the complaint of the Indians, I would suggest whether it would not be well to have their Agent take part in such examination.

A copy of this report is enclosed.

Very Respectfully,
Your obedient servant,
H. Price,

(Larrabee)

COMMISSIONER.

EXHIBIT H

Letter from E. B. Meritt, Assistant Commissioner of Indian Affairs, to Governor Leo Garcia and James H. Miller, dated November 28, 1917. This letter indicates that Acoma officials continued to complain of the loss of their lands but that nothing could be done. However, certain lands had been withdrawn by Executive Order for the use of Acomas and Laguna Indians.

Source: Copy in the Pueblo of Acoma Archives [illegible] [redacted] 4

S-1700

REFER IN REPLY TO THE FOLLOWING:

Land

W A K

ADDRESS ONLY THE COMMISSIONER OF INDIAN AFFAIRS

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

NOV 28 1917

Messrs. Leo Garcia
and James H. Miller,
Indians of the Acoma Pueblo.

My friends:

The several matters presented by you have been gone over carefully.

With regard to the claim that the patent to the Acoma Indians does not include all the land in the original Spanish grant, it may be said that there is no method whereby the Indians could bring up, at this late date, with any hope of success, the claim that the patent issued to the Acoma Indians does not cover all the land to which they were legally entitled. However, your request for land to make up the area you claim to have lost has already been recognized by Executive Orders of 1910 and 1917, withdrawing land from the public domain for the use of the Lagunas and such other Indians as the Secretary of the Interior may see fit to settle thereon. The withdrawal of 1910 covers all lands between the Acoma and Laguna grants, there being about [illegible],000 acres. The Order of March 2[illegible], 1917, withdraws about 150,000 acres south and east of the Acoma grant. All of these lands are for the use of the Acomas, as well as for the Lagunas.

We have considered your request that additional lands be added on the west and south, but we cannot see our way clear to give you more lands, as it is believed that you are well provided for at the present time. We could not take away from any person any right he gained [illegible] Executive Orders to live on the [illegible] withdrawn lands [illegible] home after the dates of the withdrawals [illegible] subject to evictions. As requested, a map of the State of New Mexico, showing approximately [illegible] lands withdrawn by Executive Order of 1910, and [illegible] withdrawn by the Order of 1917, is [illegible] Also [illegible] copy of [illegible] showing the boundaries of the [illegible] grant as surveyed by the General Land Office [illegible]

It will be necessary to make an investigation in the field of your complaint about the store being conducted near Alaska Station and the appointment of a Justice of the Peace. These two matters will be taken up through the Superintendent and you will be advised further at a later date.

We note what you say about the election of Leo Garcia as Governor of the Pueblo of Acoma. It is hoped that he will always be honest and upright in his dealings with all men and that he will cooperate with the Superintendent in maintaining order and advancing the interests of the Indians.

The letters left by you are returned herewith.

Your friend,

E B Meritt

Assistant Commissioner.

11-HMR-27

EXHIBIT I

Letter from Governor Bautista Rey to S. A. M. Young, Indian Agent, dated January 31, 1926. Acoma officials continue their protests about the erroneous surveys and that Ojo del Gallo was incorrectly located. The Governor pleads: "we respectfully beg that you examine our land (and) have it correct, that we may receive justice."

Source: Copy in the Pueblo of Acoma Archives.

EXHIBIT I

Acoma, New Mexico.
January 31, 1928.

Mr. S. A. M. Young,

Dear friend:

Being informed that you are an agent of the United States and you have come here to New Mexico to help in every way of the Indians, and to examine lands and to have justice done to those who are deserve it; so we humbly appear before you, and represent as follows:

That for hundreds of years we, the people of Acoma Pueblo have been the owners of a certain tract of land described in the title papers that we hold from the Spanish Government.

That our boundaries are very well known natural objects. That the north boundary of our Grant, is the Cerro Prieto. The south boundary El Penol, on the west boundary El Ojo del Gallo. That the Government of us, had our land surveyed some years ago, and that the survey is erroneous inasmuch as it does not embrace all our lands, which the line as surveyed on the west did not go near the Gallo Spring, and the north was not established at Cerro Prieto, but at some other Cerro.

Therefore, we respectfully beg that you examine our land have it correct, that we may receive justice. That the great injustice that has been done to us in the past, and make report to the our land board worker of the Three Commissioners of United States the land we need only correct what is miscalling. The natural objects used as land marks in the description of the boundaries they are cut off from the most valuable springs and grazing lands actually included in the original Spanish Grant.

And this misdirection of the boundary lines favored the Laguna Indians and the survey was done by German or Gorman, a man who used lived and has married among those same Laguna Indian. This is purely a matter of fact. There can be no dispute, but that the particular spring, and mountain named are the ones that shall be established where mountain and the spring mention in the Calls of the Grant are situated.

The Petitioners claimed that the Ojo de Gallo which is the western boundary of the grant, is situated a short distance from the settlement known by the name of San Rafael.

It is in a paper made by the Captain general. Don Domingo Jironzo - Petroz de Cruzate in September, 1689, in which it appears in one of the answers of an Indian who was examined before the general. It is notorious that the names of places are faithful perpetuated among the rudest and most ignorant people for centuries by tradition only, and in the present case, we would naturally expect the name in Spanish, and identity of the dispute spring would be preserved with more certainty among the Mexicans in Spanish that by Indians, and it is clear from the evidence that this spring near San Rafael has been general known among the Mexicans or Spanish speaking people as the Ojo del Gallo.

And the statement are so truthful that the Ojo del Gallo is situated near the town of San Rafael, and that was claim the Petitioner as the property of the Acoma Grant made by Don Domingo Jironzo Petros de Cruzate in 1689.

Very respectfully friend,

(Signed) Bautista Rey

Governor of Acoma.

EXHIBIT J

Warranty Deed No. 202, dated October 27, 1936, identifies the lands purchased in Eleven Townships by the United States of America. The western portion of these lands are inside the proposed National Monument and National Conservation Area.

Source: Copy in the Pueblo of Acoma Archives.

EXHIBIT J

[illegible]

2M 9-36 Form 1418-Local.
NEW MEXICO AND ARIZONA LAND COMPANY

Deed No 202

Warranty DEED

From

NEW MEXICO AND ARIZONA LAND COMPANY

To

United States of America

Conveying

124,760.42 acres
of land in

Valencia County
State New Mexico
Dated October 27, 1936.
Consideration:

$187,140.63

Copies to:
Vice Pres, Albuquerque
Auditor
L & T Comm'r (Frisco)
Ch'f Eng'r "
2/15/37 a.H.

THIS INDENTURE, Made this 27th day of October, in the year of our Lord, One Thousand Nine Hundred and Thirty-Six, between NEW MEXICO AND ARIZONA LAND COMPANY, a corporation organized and existing under the laws of the State of Arizona, of the first part, and UNITED STATES OF AMERICA, of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One Hundred Eighty-seven Thousand One Hundred Forty Dollars and Sixty-three Cents ($187,140.63), lawful money of the United States, to it in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold, remised, conveyed, released and confirmed, and by these presents does grant, bargain, sell, remise, convey, release and confirm unto the said party of the second part, and its assigns forever, subject, however, to easements for roads, highways, ditches, laterals and telegraph, telephone and other pole and/or wire lines, and other rights of way now existing, the following described lots or parcels of land and real estate, situate, lying and being in the County of Valencia and State of New Mexico, to-wit:

In Township 6 North, Range 8 West, New Mexico Principal Meridian:

Section 1,	640.40 acres,
Section 3,	640.20 acres,
Section 5,	641.84 acres,
Section 7,	635.20 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	637.20 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	639.20 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,514.04 acres,

Descriptions checked in
Chief Field Office 10-21-36
D.P.O.

In Township 6 North, Range 9 West, New Mexico Principal Meridian:

Section 1,	640.00 acres,
Section 3,	641.12 acres,
Section 5,	640.88 acres,
Section 7,	640.48 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	639.20 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	634.80 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,516.48 acres,

In Township 7 North, Range 9 West, New Mexico Principal Meridian:

Section 1,	637.76 acres,
Section 3,	636.00 acres,
Section 5,	638.80 acres,
Section 7,	650.00 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	644.64 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	640.40 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,527.60 acres,

Description checked in
Gen'l Land Office 10-21-36
B.P.O.

In Township 8 North, Range 9 West, New Mexico Principal Meridian:

Section 3,	581.41 acres,
Section 5,	581.60 acres,
Section 7,	638.00 acres,
Section 9,	640.00 acres,
Lots 1,2,3,4 & W½ NE¼,W½SE¼,W½,Section 11,	574.72 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	643.00 acres,
Section 21,	640.00 acres,
Lots 1,2,3,4 & W½ NE¼, W½SE¼, W½ Section 23,	578.97 acres,
Lots 1,2,3,4 & S½S½, Section 25,	320.80 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	652.80 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	9,691.30 acres,

In Township 6 North, Range 10 West, New Mexico Principal Meridian:

Section 1,	639.60 acres,
Section 3,	636.32 acres,
Section 5,	638.96 acres,
Section 7,	643.44 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	644.72 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	650.00 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,533.04 acres,

In Township 7 North, Range 10 West, New Mexico Principal Meridian:

Section 1,	641.36 acres,
Section 3,	641.92 acres,
Section 5,	641.12 acres,
Section 7,	639.44 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	642.56 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	647.52 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,533.92 acres,

[illegible] 10-21-36
AP8.

In Township 8 North, Range 10 West, New Mexico Principal Meridian:

Section 1,	621.04 acres,
Section 3,	621.52 acres,
Section 5,	621.76 acres,
Section 7,	632.48 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	632.08 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	636.00 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,444.88 acres,

In Township 6 North, Range 11 West, New Mexico Principal Meridian:

Section 1,	640.00 acres,
Section 3,	641.68 acres,
Section 5,	640.08 acres,
Section 7,	634.88 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	635.32 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	638.56 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,510.52 acres,

In Township 6 North, Range 6 West, New Mexico Principal Meridian:

Section 1,	638.40 acres,
Section 3,	639.84 acres,
Section 5,	642.00 acres,
Section 7,	634.40 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	638.00 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	631.84 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,504.48 acres,

Chief Engr's. Office 10-21-36
B.P.B.

In Township 7 North, Range 6 West, New Mexico Principal Meridian:

Section 1,	640.48 acres,
Section 3,	641.04 acres,
Section 5,	641.20 acres,
Section 7,	628.40 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	633.84 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	632.40 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,497.36 acres,

In Township 6 North, Range 7 West, New Mexico Principal Meridian:

Section 1,	634.40 acres,
Section 3,	631.60 acres,
Section 5,	632.00 acres,
Section 7,	636.48 acres,
Section 9,	640.00 acres,
Section 11,	640.00 acres,
Section 13,	640.00 acres,
Section 15,	640.00 acres,
Section 17,	640.00 acres,
Section 19,	636.08 acres,
Section 21,	640.00 acres,
Section 23,	640.00 acres,
Section 25,	640.00 acres,
Section 27,	640.00 acres,
Section 29,	640.00 acres,
Section 31,	636.24 acres,
Section 33,	640.00 acres,
Section 35,	640.00 acres,
	11,486.80 acres,

[illegible] 10-21-36 BPB.

containing, in the aggregate, one hundred twenty-four thousand seven hundred sixty and forty-two hundredths (124,760.42) acres.

EXCEPTING AND RESERVING to first party and its successors and assigns, all oil, gas and minerals underlying or appurtenant to said lands, together with the right of ingress and egress and of prospecting, developing and operating said lands therefor and removing the same therefrom, subject to such reasonable conditions respecting ingress and egress and the use of the surface of the lands as may be deemed necessary by the Secretary of the Interior.

TOGETHER WITH ALL AND SINGULAR the hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said party of the second part, and its assigns, forever. And the said party of the first part, for itself and its successors and assigns, does covenant and agree, to and with the said party of the second part, and its assigns, that at the time of the ensealing and delivery of these presents, it is well seized of the premises above conveyed, of a good, sure, perfect, absolute and indefeasible estate of inheritance in law and in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of what kind and nature soever, and the above bargained premises, in the quiet and peaceable possession of the party of the second part, and its assigns, against all and every person or persons lawfully claiming or to claim, the whole or any part thereof, the said party of the first part shall and will warrant and forever defend; subject, however, to the existing easements and rights of way aforesaid and also subject to the aforesaid exception and reservation.

IN WITNESS WHEREOF, the said NEW MEXICO AND ARIZONA LAND COMPANY has caused this deed to be signed by its President and attested by its Secretary, and sealed with the common seal of said corporation, this 27th day of October, 1936, by authority of its Board of Directors.

NEW MEXICO AND ARIZONA LAND COMPANY,
By (Sgd) J. M. KURN
Its President.

ATTEST:
(Sgd) L.O. WILLIAMS
Secretary.

STATE OF MISSOURI,)
) ss
CITY OF ST. LOUIS.)

On this 27 day of October, 1936, before me appeared J. M. KURN, to me personally known, who, being by me duly sworn, did say that he is the President of the New Mexico and Arizona Land Company, a corporation organized and existing under the laws of the State of Arizona, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and the said J. M. Kurn acknowledged said instrument to be the free act and deed of said corporation.

WITNESS my hand and seal notarial this 27 day of October, 1936. My commission expires November 11,1936.

(Sgd) WALTER STUDT
Notary Public.

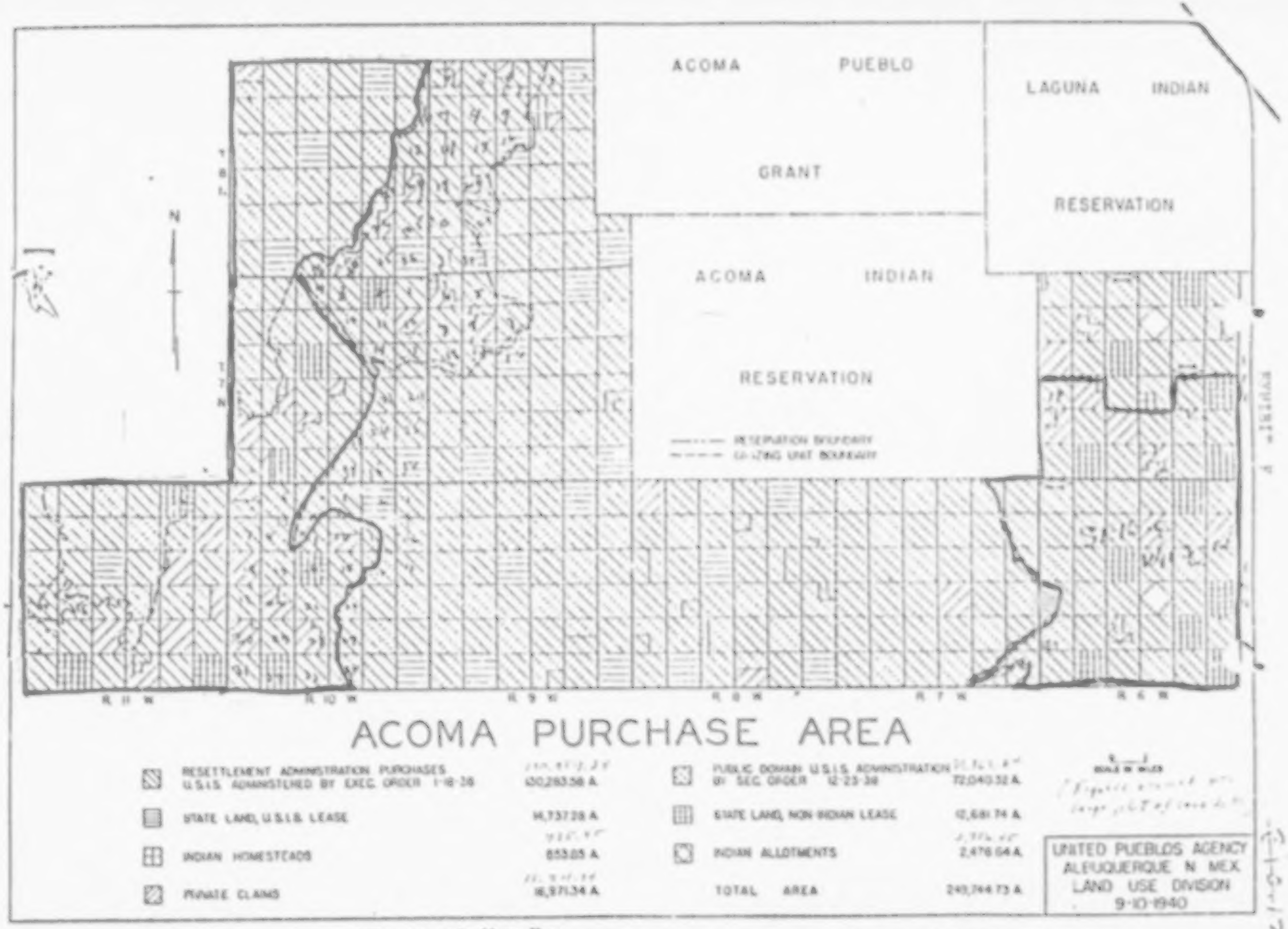
ECN

EXHIBIT F

This is a map of the Acoma Purchase Area, drawn by the United Pueblos Agency, dated September 10, 1940. The land purchased by the federal government in Warranty Deed No. 202 was known generally as the Acoma Purchase Area and it became to be called the Eleven Township area by the Acoma people.

Source: Pueblo of Acoma Archives

EXHIBIT F


ACOMA PURCHASE AREA
ACOMA PUEBLO GRANT
LAGUNA INDIAN RESERVATION
ACOMA INDIAN RESERVATION
RESERVATION BOUNDARY
GRAZING UNIT BOUNDARY
N
T 8 N
T 7 N
R 11 W
R 10 W
R 9 W
R 8 W
R 7 W
R 6 W
RESETTLEMENT ADMINISTRATION PURCHASES U.S.I.S. ADMINISTERED BY EXEC. ORDER 1-18-38 130,283.58 A.
STATE LAND, U.S.I.S. LEASE 14,737.28 A.
INDIAN HOMESTEADS 853.03 A.
PRIVATE CLAIMS 16,971.34 A.
PUBLIC DOMAIN U.S.I.S. ADMINISTRATION BY SEC. ORDER 12-23-38 72,040.32 A.
STATE LAND, NON-INDIAN LEASE 12,681.74 A.
INDIAN ALLOTMENTS 2,476.04 A.
TOTAL AREA 249,744.73 A.
SCALE IN MILES
UNITED PUEBLOS AGENCY
ALBUQUERQUE N. MEX.
LAND USE DIVISION
9-10-1940

— Non-Indian Use

— Indian Use with exception of two non-Indian permittees.

EXHIBIT L

A large scale map which has been marked to show the Eleven Townships described in the Acoma Purchase Area.

Source: Marked by the Acoma Land Office on a map made by the U.S. Department of the Interior, Bureau of Land Management, State of New Mexico, 1962.

EXHIBIT L

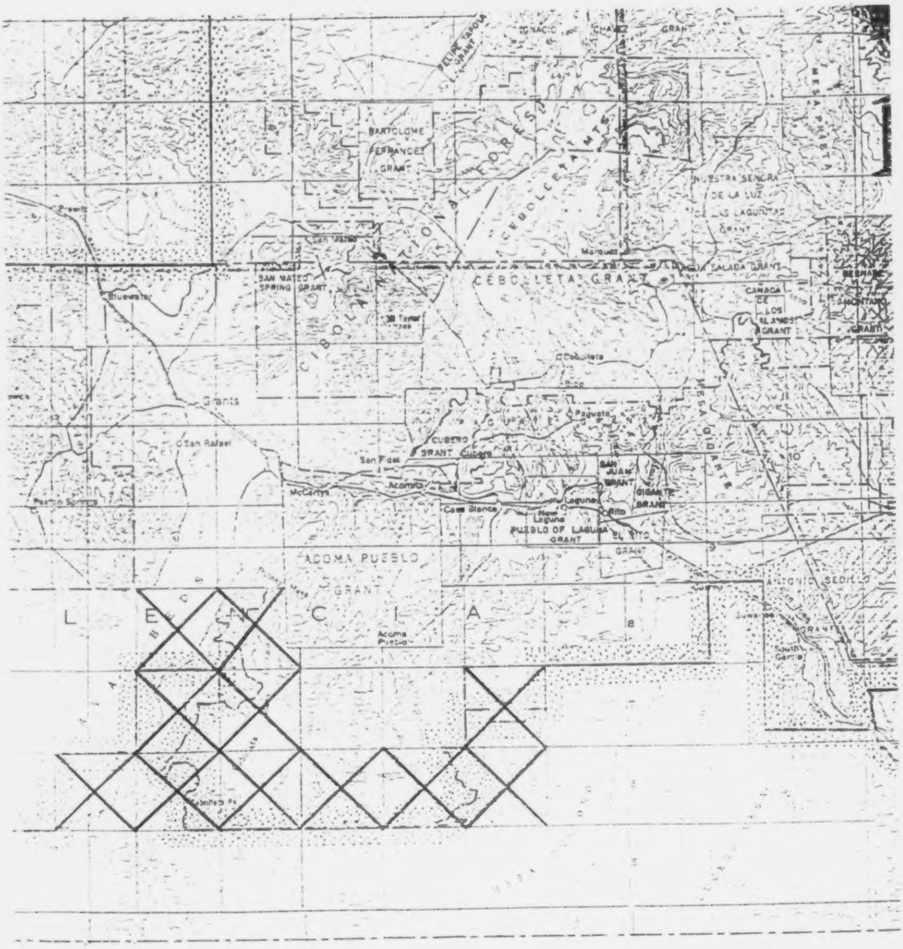

FELIPE TAFOYA GRANT
IGNACIO CHAVEZ GRANT
BARTOLOME FERNANDEZ GRANT
NATIONAL FOREST
CEBOLLETA MTS.
MESA PRIETA
NUESTRA SENORA DE LA LUZ DE LAS LAGUNITAS GRANT
Prewitt
San Mateo
SAN MATEO SPRING GRANT
Marquez
OJO DEL PADRE SALADA GRANT
CEBOLLETA GRANT
CANADA DE LOS ALAMOS GRANT
MONTANO GRANT
Bluewater
CIBOLA
Mt Taylor
Cebolleta
Bibo
Grants
MESA GIGANTE
Paguate
CUBERO GRANT
Cubero
San Fidel
O San Rafael
SAN JUAN GRANT
GIGANTE GRANT
McCartys
Acomita
Laguna
Casa Blanca
New Laguna
Rito
Paxton Springs
PUEBLO OF LAGUNA GRANT
EL RITO GRANT
ACOMA PUEBLO GRANT
ANTONIO SEDILLO GRANT
L E N C I A
Acoma Pueblo
Suwanee
South Garcia

EXHIBIT M

This is Executive Order, No. 7792, signed January 18, 1938, which sets aside the described lands in the Eleven Townships for the benefit of the Indians.

Source: Federal Register, Vol. 3, No. 15, January 21, 1938, page 162.

EXHIBIT M

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 3 NUMBER 15

Washington, Friday, January 21, 1938

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

New Mexico

WHEREAS certain lands, together with the improvements thereon, largely contiguous or in close proximity to existing Indian Reservations, in the State of New Mexico, have been, or are in the process of being, acquired in connection with the projects hereinafter designated, under authority of Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of Title I of the act of August 24, 1935, 49 Stat. 750, 781; and

WHEREAS it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me under the aforesaid National Industrial Recovery Act the Emergency Relief Appropriation Act of 1935, and the act of August 24, 1935, it is hereby ordered that jurisdiction over the hereinafter-described lands, together with the improvements thereon, acquired or in the process of acquisition by the United States in connection with the hereinafter-designated projects, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior: *Provided, however*, that the Secretary of Agriculture shall retain such jurisdiction over the lands now in process of acquisition by the United States as may be necessary to enable him to complete the purchase of such lands; and the Secretary of the Interior is hereby authorized (1) to administer, through the Commissioner of Indian Affairs, such lands for the uses for which they were, or are in the process of being, acquired, and, insofar as consistent with such uses, for the benefit of such Indians as he may designate, (2) in connection with the administration of such lands to exercise all powers and functions, insofar as they may relate to these lands, conferred upon the Secretary of Agriculture by Executive Order No. 7530 of December 31, 1936, and Executive Order No. 7557 of February 19, 1937,[1] and (3) to prescribe such rules and regulations as may be necessary to carry out the purposes of this order:

ZIA-SANTA ANA PROJECT, LI-NM 6

SANDOVAL COUNTY, NEW MEXICO

New Mexico Principal Meridian

T. 14 N., R. 1 E.,
  secs. 1, 3, 11, 13, 15, 23, 25, 27 and 35;
T. 15 N., R. 1 E.,
  sec. 1, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
  sec. 2, lots 1 and 2, and that part lying within the San Ysidro Land Grant;

T. 15 N., R. 1 E.—Continued.
  sec. 3, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
  secs. 4 and 5, those parts lying within the San Ysidro Land Grant;
  sec. 11, all;
  sec. 12, N½NE¼, SE¼NE¼, and N½NW¼;
  sec. 13, NW¼, SW¼, and SE¼;
  secs. 15 and 23, all;
  sec. 24, NE¼, NW¼, SW¼, and N½SE¼;
  secs. 25, 27, and 35, all;
T. 16 N., R. 1 E.,
  secs. 31 to 36, inclusive, those parts lying within the San Ysidro Land Grant;
T. 14 N., R. 2 E.,
  sec. 3, lots 9 to 12, inclusive, S½SW¼, and S½SE¼;
  sec. 5, lots 9 to 12, inclusive, S½SW¼, and S½SE¼;
  sec. 7, lots 1 to 4, inclusive, NE¼, E½NW¼, E½SW¼, and SE¼;
  sec. 9, all;
  sec. 11, W½NE¼, NW¼, SW¼, and W½SE¼;
  secs. 15, 19 and 21, all;
  sec. 23, W½NE¼, NW¼, SW¼, and W½SE¼;
  secs. 27, 29, 31 and 33, all;
  sec. 35, lots 2 to 4, inclusive, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
T. 15 N., R. 2 E.,
  secs. 1 and 2, those parts lying within the San Ysidro Land Grant;
  sec. 3, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
  sec. 4, that part lying within the San Ysidro Land Grant;
  sec. 5, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
  Sec. 6, that part included in Claim No. 4163 F. C.-302, patented May 16, 1934, and that part lying within the San Ysidro Land Grant;
  sec. 7, lots 1 and 2, SE¼, NW¼, W½SW¼, and that part included in Claim No. 4163 F. C.-302, patented May 16, 1934;
  sec. 9, lots 1 to 4, inclusive, N½NE¼, and N½NW¼;
  sec. 11, lots 2 to 4, inclusive, NW¼NE¼, and N½NW¼;
  sec. 19, lots 1 to 4, inclusive, and SW¼;
  sec. 31, lots 1 to 4, inclusive, NW¼, and SW¼;
T. 16 N., R. 2 E.,
  secs. 31 to 36, inclusive, those parts lying within the San Ysidro Land Grant;
T. 15 N., R. 3 E.,
  secs. 1 to 4, inclusive, those parts lying within the Ojo de Borrego Land Grant;
  secs. 5 and 6, those parts lying within the San Ysidro Land Grant;
  secs. 9 to 12, inclusive, those parts lying within Ojo de Borrego Land Grant;
T. 16 N., R. 3 E.,
  secs. 13 to 16, inclusive, those parts lying within the Ojo de Borrego Land Grant;
  sec. 17, SW¼SW¼;
  sec. 18, SE¼SE¼;
  sec. 19, NE¼NE¼;
  sec. 20, NW¼NW¼;
  secs. 21 to 28, inclusive, those parts lying within the Ojo de Borrego Land Grant;
  sec. 31, that part lying within the San Ysidro Land Grant;
  secs. 33 to 36, inclusive, those parts lying within the Ojo de Borrego Land Grant;
T. 15 N., R. 4 E.,
  secs. 5 to 8, inclusive, those parts lying within the Ojo de Borrego Land Grant;
  sec. 29, NE¼NE¼;

---

[1] 2 F. R. 3,411 (DI).

T. 13 N., R. 2 W.—Continued.
sec. 29, lots 1 and 2, NE¼, S½NW¼, SW¼, and SE¼;
sec. 31, lots 1 to 4, inclusive, E½NE¼, and E½SE¼;
sec. 33, all;
secs. 34 to 36, inclusive, those parts lying within the Bernabe de Montano Land Grant;
T. 9 N., R. 3 W.,
secs. 1, 3, 5, 7, and 9, all;
sec. 11, lots 1 to 5, inclusive;
sec. 15, NE¼, N½NW¼, SE¼NW¼, E½SW¼, and SE¼;
secs. 17, 19 and 21, all;
sec. 23, lots 1 and 2;
sec. 27, SW¼ and SE¼;
secs. 29, 31 and 33, all;
sec. 35, lots 1 and 2;
T. 10 N., R. 3 W.,
sec. 5, lot 1;
sec. 9, lots 1 to 3, inclusive, NE¼, E½NW¼, SE¼SW¼, and SE¼;
sec. 15, SW¼NE¼, NW¼, SW¼, and W½SE¼;
sec. 17, lots 1 to 5, inclusive, E½NE¼, S½SW¼, and SE¼;
secs. 19, 21, 27, 29, 31, and 33, all;
T. 11 N., R. 3 W.,
sec. 1, lots 1, 2, 5, 6, and 7, SW¼NE¼, SW¼, and W½SE¼;
sec. 3, lots 1 to 4, inclusive, S½NE¼, S½NW¼, SW¼, and SE¼;
sec. 5, lots 1, 3 and 4, SE¼NE¼, S½NW¼, SW¼, and SE¼;
sec. 7, lots 1 to 4, inclusive, NE¼, E½NW¼, E½SW¼, and SE¼;
sec. 8, W½NE¼, N½SW¼, SW¼SW¼, and W½SE¼;
sec. 9, all;
sec. 10, W½NW¼ and NW¼SW¼;
sec. 11, NE¼, NW¼, SW¼, NW¼SE¼, and S½SE¼;
secs. 13, 15 and 17, all;
sec. 18, NE¼;
sec. 19, lots 1 to 7, inclusive, N½NE¼, and NE¼NW¼;
secs. 21, 23, 25, and 27, all;
sec. 29, lots 1 and 2, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
sec. 31, lots 1 and 2 and NE¼NE¼;
sec. 33, lots 1 to 4, inclusive, NE¼, NW¼, N½SW¼, and N½SE¼;
sec. 35, all;
T. 12 N., R. 3 W.,
sec. 7, lots 1 to 4, inclusive;
sec. 9, lots 1 to 4, inclusive;
sec. 11, lots 1 to 4, inclusive;
sec. 13, lots 1 to 7, inclusive, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
secs. 15, 17 and 21, all;
sec. 25, lots 1 to 4, inclusive;
sec. 27, all;
sec. 29, NW¼NE¼, N½NW¼, SW¼NW¼, SW¼ and SE¼;
sec. 33, all.

Acoma Project, LI–NM 8

VALENCIA COUNTY, NEW MEXICO

New Mexico Principal Meridian

T. 6 N., R. 6 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 7 N., R. 6 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 6 N., R. 7 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17 to 21, inclusive, 23, 25, 27 to 31, inclusive, 33, and 35;
T. 6 N., R. 8 W.,
secs. 1, 3, 5, 7, and 9, all;
sec. 10, NW¼;
secs. 11 to 13, inclusive, all;
sec. 14, NE¼ and SE¼;
secs. 15 and 17, all;
sec. 18, NW¼ and SW¼;
sec. 19, all;
sec. 20, SE¼;
secs. 21 and 23, all;
sec. 24, NW¼NE¼, S½NE¼, and NW¼SE¼;
secs. 25, 27 and 29, all;
sec. 30, SW¼;
secs. 31, 33 and 35, all;
T. 6 N., R. 9 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, and 25, all;
sec. 26, SW¼ and SE¼;
secs. 27, 29, 31, and 33, all;
sec. 34, SE¼;
sec. 35, all;
T. 7 N., R. 9 W.,
secs. 1, 3, 5, and 7, all;
sec. 8, NE¼SE¼;
T. 7 N., R. 9 W.—Continued.
secs. 9, 11, 13, 15, 17, 19, 21, and 23, all;
sec. 24, E½SW¼ and N½SE¼;
secs. 25, 27, 29, 31, 33, and 35, all;
T. 8 N., R. 9 W.,
sec. 3, all;
sec. 4, lots 1 and 2, S½NE¼, N½SW¼, SW¼SW¼, and N½SE¼;
sec. 5, all;
sec. 6, lots 5 and 6, SE¼NW¼, and NE¼SW¼;
T. 8 N., R. 9 W.,
secs. 7 to 9, inclusive, all;
sec. 11, lots 1 to 4, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 15 and 17, all;
sec. 18, NE¼ and SE¼;
secs. 19 and 21, all;
sec. 23, lots 1 to 4, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
sec. 25, lots 1 to 4, inclusive, SW¼, and SE¼;
secs. 27, 29, 31, 33, and 35, all;
T. 6 N., R. 10 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 7 N., R. 10 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 8 N., R. 10 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23, all;
sec. 24, N½NE¼, SE¼NE¼, and E½SE¼;
secs. 25, 27, 29, 31, 33, and 35, all;
T. 6 N., R. 11 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Jemez Project, LI–NM 9

SANDOVAL COUNTY, NEW MEXICO

New Mexico Principal Meridian

Tps. 15, 16, 17 and 18 N., Rs. 1 E. and 1 W.,
those parts lying within the Ojo del Espiritu Santo Land Grant, as described in U. S. Survey No. 44;
Tps. 15 16 and 17 N., R. 2 W.,
those parts lying within the Ojo del Espiritu Santo Land Grant as described in U. S. Survey No. 44.

Isleta Project, LI–NM 11

BERNALILLO AND VALENCIA COUNTIES, NEW MEXICO

New Mexico Principal Meridian

T. 7 N., R. 1 W.,
secs. 5 and 7, all;
sec. 9, lots 1 to 4, inclusive, W½NW¼, NW¼SW¼, and S½SW¼;
sec. 15, lot 1;
sec. 17, lots 1 to 4, inclusive;
T. 8 N., R. 1 W.,
sec. 1, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 3, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 5, lots 1 to 6, inclusive;
sec. 7, lot 1;
sec. 31, lots 1 to 4, inclusive;
sec. 33, lots 1 to 3, inclusive;
T. 7 N., R. 2 W.,
sec. 1, all;
sec. 11, lot 1;
sec. 13, lots 1 and 2, and NE¼NE¼;
T. 8 N., R. 1 E.,
sec. 1, lots 1 to 4, inclusive, NE¼, and NW¼;
sec. 3, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 4, lots 1 to 4, inclusive, S½NE¼, and S½NW¼;
sec. 5, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 6, lots 1 and 2, NE¼, and E½NW¼;
T. 8 N., R. 2 E.,
sec. 5, lots 1 to 4, inclusive, NE¼, and NW¼;
T. 7 N., R. 3 E.,
that part lying within the tract described in U. S. Land Office Record No. 067415, Santa Fe Series, and known as the "Peralta tract of the Southern Part of the Lo de Padilla Grant";
T. 7 N., R. 4 E.,
sec. 6, SE¼ and that part lying within the tract described in U. S. Land Office Record No. 067415, Santa Fe Series, and known as the "Peralta tract of the Southern Part of Lo de Padilla Grant."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE
January 18, 1938

[No. 7792]

[F. R. Doc. 38-208; Filed, January 19, 1938; 2:10 p. m.]

EXHIBIT N

Published in the Federal Register, on January 24, 1939, this is the Secretarial Order transferring the public domain in the Eleven Townships to the Indian Service Administration for the purpose of adding "the said land to the Indian Reservation contiguous (emphasis added) thereto."

Source: Federal Register, Vol. 4, No. 15, January 24, 1939, page 401.

EXHIBIT N

SECRETARIAL ORDER TRANSFERRING
PUBLIC DOMAIN IN ELEVEN TOWNSHIPS
TO INDIAN SERVICE ADMINISTRATION.

TITLE 25 - INDIANS

OFFICE OF INDIAN AFFAIRS

Temporary Withdrawal of Public Domain and

Modifying New Mexico Grazing District No. 2 and Departmental
Withdrawal of October 11, 1934

December 26, 1938

By virtue of and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), it is ordered that the Departmental order of March 27, 1936, as modified by order of February 23, 1937, establishing New Mexico Grazing District No. 2 be and it is hereby, modified to exclude therefrom township 6, ranges 6 to 11, inclusive, township 7, ranges 6, 9 and 10, and township 8, ranges 9 and 10, all north and west of the New Mexico Principal Meridian in New Mexico. It is further ordered that Departmental withdrawal of October 11, 1934, made pursuant to authority found in section 4 of the act of March 3, 1937 (44 Stat. 1347), temporarily withdrawing certain public domain for exchange purposes as contemplated by the act of March 3, 1921 (41 Stat. 1225-1239) is hereby modified to exclude therefrom the above described townships and under authority of section 4 of the act of March 3, 1927, supra, all public domain within said townships is hereby temporarily re-withdrawn from settlement, location, sale, entry or other form of disposition in aid of proposed legislation to addthe said land to the Indian reservation contiguous thereto. Pending the enactment of such legislation the Commissioner of Indian Affairs is hereby authorized to administer all public lands within the area above described.

This order is subject to all valid existing rights.

Harry Slattery
Acting Secretary

1939
(Copied from FEDERAL REGISTER, January 24, ~~1938~~,-
Vol. 4, No. 15, p. 401.)

EXHIBIT O

Letter from Oscar L. Chapman, Under Secretary, to Senator Carl A. Hatch, dated May 7, 1946, referring to the Eleven Township land. In discussing the Eleven Township he states that "it was planned to complete purchase of all the privately owned lands within the Eleven Township area and to make all of the land available for use by the Acoma Indians," but that funding had been depleted. Furthermore, he goes on, "it is therefore the intention to offer to purchase the remaining patented land in the area as soon as funds become available and land prices become stabilized." Too, "when the proposed purchases have been completed, it is intended to offer legislation to add the area to the Acoma reservation."

Source: Copy in the Pueblo of Acoma Archives

EXHIBIT O

Land

F & G
15869-46

Indian

25, D. C.
Evans ✓
[illegible] ✓
Price ✓

P.R.S. 1693

MAY - 7 1946

Hon. Carl A. Hatch,

United States Senate.

My dear Senator Hatch:

In his letter of March 27, 1946, addressed to you, Mr. George A. Godfrey, President of the New Mexico Cattle Growers' Association, inquired whether it would be possible to pass legislation to retransfer the public domain in the Acoma-Eleven Townships area to New Mexico Grazing District No. 2 and have it administered by the Grazing Service.

This area was set up by the Resettlement Administration as a land use adjustment project for the benefit of the Acoma Indians. In carrying out the program, the government acquired some 121,000 acres of railroad and other patented lands, administration of which was transferred by Executive Order No. 7792 to the Secretary of the Interior and to the Commissioner of Indian Affairs. About 71,000 acres of public domain lands were transferred to the Commissioner of Indian Affairs for administration by the Secretarial order of December 23, 1938. It was planned to complete purchase of all the privately owned lands within the Eleven Townships area and to make all of the land available for use by the Acoma Indians, but the funds available for land purchases were exhausted in 1938, with the result that about 15,000 acres of patented land remained in non-Indian ownership.

Of this patented land, two-thirds were in that part of the Eleven Townships west of the Putney and Cebolleta Mesas. Within this part of the Eleven Townships area approximately 30,000 acres had been purchased for Indian use; there were 14,000 acres of public domain land and 6,000 acres of state lands. The Acomas need the grazing capacity of this area for their livestock. Since 1934 the Acomas, in order to conserve the badly overgrazed and overstocked range on their reservation, have reduced their flocks by almost 70%. They are now down to about 22 sheep units per capita compared with about 130 sheep units or their equivalent per capita for the New Mexico population represented by permittees in the New Mexico grazing districts. Even for their reduced flocks the Acomas do not have sufficient range. It is therefore the intention to offer to purchase the remaining patented land in the area as soon as funds become available and land prices become stabilized. The sale of the land would, of course, be entirely voluntary on the part of the owners. When the proposed purchases have been completed, it is intended to offer legislation to add the area to the Acoma reservation.

In 1944 I directed the Commissioner of Indian Affairs to grant grazing permits within this sub-unit of Eleven Townships area to the non-Indian land owners and lessees, the permits to be based substantially upon the applicable provisions of the Taylor Grazing Act. Under this direction, five-year permits have been issued to and accepted by all of the non-Indian operators within this area with one exception. One of the operators refused to accept the permit offered him and brought suit in the Federal District Court against the Pueblo of Acoma. Before the trial the attorneys for Mr. Bibo and for the government made a satisfactory settlement under the terms of which Mr. Bibo was to accept a permit and the suit was to be dismissed. Nevertheless Mr. Bibo refused to accept the settlement that had been agreed to by his counsel. There has been no complaint, so far as I know, from any of the other-non-Indian permittees in this area.

In view of these circumstances I believe it will not be necessary to pass legislation to place the lands in question under the jurisdiction of the Grazing Service. I am certain that from the standpoint of range management, conservation and development, the Eleven Townships area is receiving adequate treatment and attention.

Mr. Godfrey's letter is returned.

Sincerely yours,

(Sgd.) Oscar L. Chapman

Under Secretary.

cc - Supt. Evans

EXHIBIT P

Memorandum from the Southern Pueblos' Superintendent to the Albuquerque Area BIA Director, dated June 3, 1977. This stresses Acoma's concerns over lands in the Pueblo of Acoma's Berryhill lands, which are located in the Eleven Township area. The Berryhill Ranch lands had been placed in trust status.

Source: Copy in the Pueblo of Acoma Tribal Files

EXHIBIT P

IN REPLY REFER TO:
Real Prop. Mgmt.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
BRANCH OF REAL PROP. MGMT.
Southern Pueblos Agency
P. O. Box 1667
Albuquerque, N. M. 87103

JUN 0 3 1977

Memorandum

To: Area Director, Albuquerque
Attention: Real Estate Services

From: Superintendent

Subject: Acoma Governor's Questions To Commissioner Concerning Land Acquisition And Ownership of Minerals

In response to your memorandum of May 5, 1977, the Agency Realty Officer met with Governor Paytiamo and Tribal Attorney Chuck Reynolds to discuss questions they might have concerning land status.

Governor Paytiamo asked about the mineral ownership in the Eleven Townships area and he was advised that this land was acquired for the Pueblo by Act of August 13, 1949 and that the Arizona-New Mexico Land Company had reserved the minerals in every other section. He was further advised that the only way the Realty Officer knew of acquiring the mineral ownership was by purchase.

The Governor was also concerned about the Pueblo's recent purchase of the Berryhill Ranch being taken in trust. Title to this ranch was taken in the name of the United States in Trust For the Pueblo of Acoma.

The discussion then turned to Pueblo land status in general and Governor Paytiamo instructed Mr. Reynolds to acquaint himself with Agency files. It was agreed that Mr. Reynolds' and the Agency Realty Officer would get together at some future date agreeable to Mr. Reynolds.

Copies of your correspondence are attached for reference.

(SGD.) [illegible] SUPERINTENDENT

Superintendent

cc: Governor, Pueblo of Acoma
Coordinator, R. Magirl
Tribal Attorney, Ortega & Snead

4
RECEIVED
JUN 8 1977
PUEBLO OF ACOMA
Office of Governor

Senator **Bingaman**. Thank you very much, Governor. Let me indicate that we will certainly provide you with a map of this proposed region so that it is very clear as to exactly what is proposed.

It is my understanding that we have a general consensus among all involved to accommodate to the Berry Hill Ranch that you have referred to, and to the need to not override that purchase. I think that can certainly be done.

I want to just ask one question. There is language in the bill regarding cultural resource protection. The "cultural resources," is that language which is satisfactory, in your view? Or does that need to be strengthened? Did you have an opinion on that issue?

Governor **Paytiamo**. Is that the one that is part of section 504?

Senator **Bingaman**. I believe that is right.

Governor **Paytiamo**. I believe we could add a bit, like maybe the terms that are acceptable to the Indian people. I think this would satisfy our request.

Senator **Bingaman**. Okay, we appreciate that suggestion. I think that is something on which we want to be accommodating. We will talk among ourselves on that. I appreciate again your testimony on it.

Senator Domenici, do you have some questions for the Governor?

Senator **Domenici**. Governor, first let me again thank you for your participation not only here today, which certainly takes you far away from home, but in the past you have been with us and with other Members as this bill evolved, including your visit to Grants the other night, with a lot of Indian leaders and other distinguished people.

First, Governor, with reference to the Berry Hill Ranch, I do not think there is any intention to take your land. In fact, as far as deeded land, it is my understanding that the staff draft had intended to exclude it.

There is an issue with reference to the permits for grazing, because if you look at the proposal, part of the permit is in the conservation area and part is in the monument. And all we can say is we are going to try and work with you with reference to that. That is treated differently in the bill. One continues on, the other terminates at some point in time, and we have the same issue raised by a couple of other allottees and we hope to be able to work it out in some way. Thank you very much.

Thank you, Mr. Chairman.

Senator **Bingaman**. Thank you very much, Governor. We appreciate very much you being here.

Our next witness is George Byers, who is the Director of Public Affairs for Santa Fe Pacific Minerals Corporation. George, if you would come forward, we would be glad to hear your testimony.

STATEMENT OF GEORGE G. BYERS, DIRECTOR, PUBLIC AFFAIRS, SANTA FE PACIFIC MINERALS CORP.; ACCOMPANIED BY JEROME C. MUYS, ESQUIRE, HOLLAND & HART

Mr. **Byers**. Thank you, Mr. Chairman, Senator Domenici. I have with me Mr. Jerry Muys of the firm of Holland & Hart. I will attempt to summarize my statement, which has already been submitted for the record.

Mr. Chairman, I am here to give support, but qualified support, for S. 56. We qualify our support because one of our affiliates, the Santa Fe Pacific Railroad Company, owns almost 15,000 acres of reserved mineral estates in the four WSAs and in a portion of the conservation area to the southeast of the El Malpais, which this bill would designate.

We have only minimal information at this time, based upon our own drilling and upon two open file reports from the New Mexico Bureau of Mines. But this information does indicate that at a minimum, at a minimum, there are about 15 million tons of coal in the area. I have attached to the testimony which you have a map which shows the location of our lands in the WSAs and conservation area.

In 1985 the Santa Fe Pacific was approached by the New Mexico Wilderness Coalition and by the National Parks and Conservation Association, during BLM's planning process for these WSA's. Those organizations encouraged us to conduct a minerals exchange, such as the one we are conducting with Chaco Canyon at the present time.

In exchange of our mineral estates, they perceived, and we perceived and the BLM did, would eliminate the manageability problem which our mineral estates posed. And the reason for a manageability problem is that the Government, when it took the surface above our mineral estates, took that surface at all times knowingly subject to our reserved mineral interests and our valid existing rights for access, development, and so forth.

We have perceived, though, it is our experience that, despite our mineral reservation, despite FLPMA protection of our vested rights, WSA designation or any protective status harms us because, for one, we are unable to lease our lands to other companies that may wish to explore for minerals, because those companies view any protective status, even a WSA, as an effective bar to development.

Number two, we are not going to go in there ourselves, just simply as a matter of bad public relations, even though we feel we could comply with the non-degradation criteria. So in effect, what we have had, even with the WSA, is a taking of our lands without compensation. And we do not believe that the Congress intended that result under its wilderness program.

So for these reasons, we began our discussions with the BLM thinking that their planning process would be allowed to be completed. As a result of our offer of exchange, BLM took our offer to indicate to them that the manageability problem would be eliminated, and as a result, in their statewide EIS, they recommended those areas for wilderness designation.

I would have to agree here with Mr. Horn, in this respect, that it is unfortunate that BLM's planning process cannot be carried to its logical conclusion. At any rate, we have held discussions with the BLM as recently as late last week. The concept of the exchange which we are talking about is that we would have an equal value exchange of coal in nearby lands. We are not looking to go into another part of the State by any means, but just nearby. But we have got some problems, chiefly one being that the geology in the area is poorly known. The lines which are shown on that map, showing the Datil Mountain Coal Field, are in BLM's words, poorly-drawn. They are not the result of any detailed field work, by any means.

This means that BLM's mineral report, which is going to be required to do, is going to be a difficult one, a time-consuming, and perhaps an expensive one, depending upon the level of information which will be required.

Our solution has been to ask for a designation and BLM's agreed to designate a pool of lands, and they have identified some 30,000 acres of severed Federal minerals, Federal minerals beneath private surface in nearby areas. The identification of 30,000 acres gives them the flexibility to make an exchange with us which would be the best one possible.

We expect this exchange to be completed. We do not know when, and we do not know when because our experience with other exchanges in Arizona and in New Mexico indicates that exchanges between the BLM and a private party of severed minerals can be a very difficult one.

It is, obviously, not difficult, as we have seen in Arizona, where the BLM has made massive, hundred thousand acre or more exchanges with the State of Arizona, but the BLM is concerned with making massive mineral, severed mineral exchanges with a private party, mainly because there is a Teapot Dome syndrome in their thinking, even when there is an indisputable public purpose, such as we have in this case, that would result.

I believe that Mr. Horn's statement also indicated some other problems. He asked for BLM to be given some flexibility with making exchanges, such as having interstate exchanges. That is one of the remaining conclusions of the Public Land Law Review Commission, which has not been enacted yet by the Congress.

We believe what S. 56 can do is to set an example for this Congress, for other bills which this committee may soon consider on designations for protective status for other areas in New Mexico, for areas in Arizona and California as well, areas which could well have private interests included in them.

S. 56 should meaningfully show how to protect private property rights. And we have found that reliance in past legislation on boilerplate language, having to do with valid existing rights are protected, really that language is just not sufficient. Again, as Mr. Horn said, this bill should be a model of public and private cooperation.

That concludes my testimony, Mr. Chairman.

[The prepared statement of Mr. Byers follows:]

STATEMENT
OF
GEORGE G. BYERS
DIRECTOR, PUBLIC AFFAIRS
SANTA FE PACIFIC MINERALS CORPORATION

on

S. 56

"TO ESTABLISH THE EL MALPAIS NATIONAL MONUMENT, THE MASAU TRAIL, AND GRANTS NATIONAL CONSERVATION AREA IN NEW MEXICO"

Before the

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
OF THE
UNITED STATES SENATE

Washington, D.C.
February 19, 1987

Mr. Chairman, my name is George Byers. I am Director of Public Affairs for Santa Fe Pacific Minerals Corporation, a subsidiary of the Santa Fe Southern Pacific Corporation.

I appreciate being invited here today to speak in favor of S. 56, but I must qualify my support for this legislation because Santa Fe Pacific owns about 14,841.12 acres of reserved mineral estates beneath a portion of the lands which you are considering for wilderness or conservation area status. Although limited exploration work has been done to determine the mineral potential of those lands, the drilling information that we have indicates that coal bearing deposits lie within all but about four sections of our mineral estate. Based on this information, our geologists estimate that the Santa Fe Pacific sections lying within the proposed conservation area contain demonstrated and inferred coal resources at a depth of less than 200 feet and in thicknesses ranging between 3 1/2 and 7 feet amounting to at least 15.66 million tons.

In 1985 Santa Fe Pacific was approached by representatives of the National Parks and Conservation Association and the New Mexico Wilderness Coalition to encourage us to consider exchanging our mineral estates in four BLM-managed WSA's (Pinon, Sand Canyon, Rimrock and Little Rimrock) for BLM lands or mineral interests elsewhere in New Mexico. BLM and these two organizations, all of which have strongly supported our efforts to exchange our mineral estates which remain within Chaco Culture National Historical Park and several of its outlying ruins, believed a similar exchange of our mineral estates would allow BLM to eliminate the chief manageability concern in these WSA's and increase the likelihood that they would be carried through BLM's planning process and recommended for wilderness designation.

The presence of our mineral estates in these four WSA's, and in a number of other BLM-managed WSA's in New Mexico, Arizona and California, presents manageability problems because BLM, at the time it acquired rights to the surface above our mineral estates, took them subject to our reservation of the right to use so much of the surface as is necessary for mineral exploration, development and access.

Despite our mineral reservation and the fact that our rights are protected as "valid existing rights" under the Federal Land Policy and Management Act (FLPMA), designation of the surface above our minerals as WSA's has effectively precluded us from being able to enjoy an economic return on our property for two principal reasons. First, it is impossible to lease these lands to other companies who may wish to explore for minerals simply because they fall within a BLM-managed WSA. Why? Despite the fact that these lands have not yet been designated as wilderness and may even be returned to multiple use at a later date, the existence of a WSA is viewed by other companies as an effective bar to development. The second reason is that, even though Santa Fe Pacific could comply with FLPMA's non-degradation criteria governing development of our minerals, as a practical matter any attempt to exercise our protected rights in a WSA would undoubtedly attract an unwelcome amount of adverse publicity.

Although not heretofore recognized as such by Congress, Mr. Chairman, the practical result to us is a taking of our minerals without compensation. Santa Fe Pacific believes that Congress did not intend that result under the wilderness program and needs to give it serious attention.

For these reasons, and in order to protect our rights, Santa Fe Pacific in March of 1986 proposed to BLM's New Mexico State Director that BLM and Santa Fe enter into an exchange of mineral estates which would serve the interests of both BLM and Santa Fe Pacific. Despite the fact that today we still own the mineral estates beneath the four WSA's, BLM considered our offer as sufficient to remove the inherent manageability problem and enable it to recommend in its state-wide wilderness EIS that these four WSA's be recommended for wilderness designation.

BLM has since identified certain federal mineral lands from which Santa Fe Pacific could make selections in exchange for Santa Fe Pacific's reserved minerals. As currently envisioned, the exchange would be for equal value under the provisions of Section 206 of FLPMA, and would result in Santa Fe Pacific acquiring federal subsurface acreage in nearby lands in an amount which BLM and our geologists consider to be equivalent in terms of coal value to the Santa Fe Pacific lands which BLM would acquire in the WSA's and within the conservation area. I have attached to my testimony a map showing the location of the mineral estate Santa Fe Pacific owns within the WSA's and the proposed conservation area.

I must note that BLM admits some problems in identifying the exact lands to offer to Santa Fe Pacific for exchange. The chief difficulty is that the Datil Mountain Coal Field is not well-defined. The boundary lines shown on the map attached to my testimony -- while drawn by BLM -- are not official, that is, they are not the result of detailed geologic field work. BLM recognizes the insufficiency of its geologic data, and, as a result, the mineral report which BLM must prepare for an exchange will not be easy. Because of these problems, BLM and Santa Fe Pacific have agreed to identify a pool of federal minerals which is substantially larger than the actual number of acres that will be exchanged. Furthermore, there may be a need to provide some flexibility to the BLM in making the required equal value exchange determination, as I will discuss later in my testimony.

Listed below is the general location of this pool of federal minerals of similar resource character which the BLM has identified as potentially suitable for exchange.

> New Mexico Principal Meridian, Township 3 North Range 7 West, Township 4 North Range 7 West, Township 5 North Range 7 West, Township 4 North Range 8 West, Township 3 North Range 9 West, Township 3 North Range 10 West, Township 4 North Range 10 West, Township 3 North Range 11 West, Township 4 North Range 11 West and Township 4 North Range 12 West

It should be noted that only federal minerals with private surface will be selected from this pool of lands.

Santa Fe Pacific has a cordial and effective working relationship with BLM. We have every reason to expect that this exchange can ultimately be completed, but BLM is unable to estimate when this could be. Nevertheless, Santa Fe Pacific believes that this legislation should be amended to recognize BLM's and Santa Fe Pacific's efforts at exchange by directing the Secretary to complete that exchange within a time certain (as the bill now provides with respect to the mandated exchange with the State of New Mexico) and from within the pool of lands BLM has identified that are listed above.

Santa Fe Pacific favors having the Congress mandate the exchange for several reasons. First, our experiences with other FLPMA Section 206 exchanges in New Mexico and Arizona indicate that the process is not easy or certain, even when indisputable public purposes will be achieved. In New Mexico, we have been attempting for five years -- and we are not finished yet -- to complete an exchange whereby BLM would develop solid and more easily leasable tracts of federal coal and acquire more than equal value Santa Fe Pacific coal in return plus our remaining private lands within Chaco Culture National Historical Park.

In Arizona, at BLM's request, we have indicated our willingness to exchange our reserved minerals within four WSA's and the Grand Canyon National Park, only to have our initial proposals flatly turned down by BLM, even though the BLM and the State of Arizona have been conducting massive exchanges involving hundreds of thousands of acres of lands in the same geographic area. As a result, while we are optimistic about the pending El Malpais exchange, we recommend that Congress mandate this exchange.

S. 56 must not set an example of legislation which will knowingly diminish or extinguish private property rights. It is only the first of many bills which this Congress will consider which would take large blocks of public lands in New Mexico, Arizona and California out of multiple use status and place them in wilderness, park or other preservationist status -- public lands which contain many private and state inholdings. S. 56 should be used by the Congress to demonstrate that it will meaningfully respect those private property rights.

Congress, by authorizing and directing BLM to complete its El Malpais exchange with Santa Fe Pacific, could deflect opposition to any future wilderness, national monument, or national park legislation which would include private interests by setting an example for protecting those interests through exchange. It is not sufficient to continue the practice of relying on boilerplate language that the new areas are "subject to valid existing rights."

Any future legislation must also consider some additional points. In order to improve BLM's ability to make any future exchanges, I believe Congress should consider amending Section 206 of FLPMA to remove the prohibition on interstate exchanges of lands in appropriate situations. In 1970, the Public Land Law Review Commission recommended that "generally, within each department, all federally owned lands otherwise available for disposal should be subject to exchange, regardless of agency jurisdiction and geographic limitation" (Recommendation 126). That PLLRC recommendation is one of the few that has not yet been enacted by Congress.

Next, the concept embodied in Public Law 96-550 may well be used. Senator Domenici will recall that this Act provided that exchanges of private land for federal land be given priority by the Secretary of the Interior for any acquisition of private lands at Chaco Canyon and the designated outliers which would be needed to forestall mineral development potentially harmful to the ruins. The law further instructed the Secretary to attempt to acquire any private lands or interests by exchange prior to acquiring them by any other method such as condemnation. Next, for the purpose of completing the exchange, the Secretary was directed to designate a pool of lands of at least three times the size of the private acreage to be acquired. This pool was to be comprised of federal property interests of a similar resource character to the property to be exchanged. Finally, the Act provided that any exchange would be made on the basis of equal value, but in a provision which I believe is unique to this Act -- and very desirable in our opinion -- it was provided that if the parties were otherwise agreeable to an exchange, but the Secretary faced difficulties in making an exact equal value determination, the exchange could nevertheless be made, if the Secretary determined the exchange to be in the public interest. A refinement of this approach would be to permit an acre-for-acre exchange where the mineral potential of both the private and federal lands is unknown or uncertain and cannot be readily determined. BLM has followed this approach in making massive exchanges with the State of Arizona over the past few years.

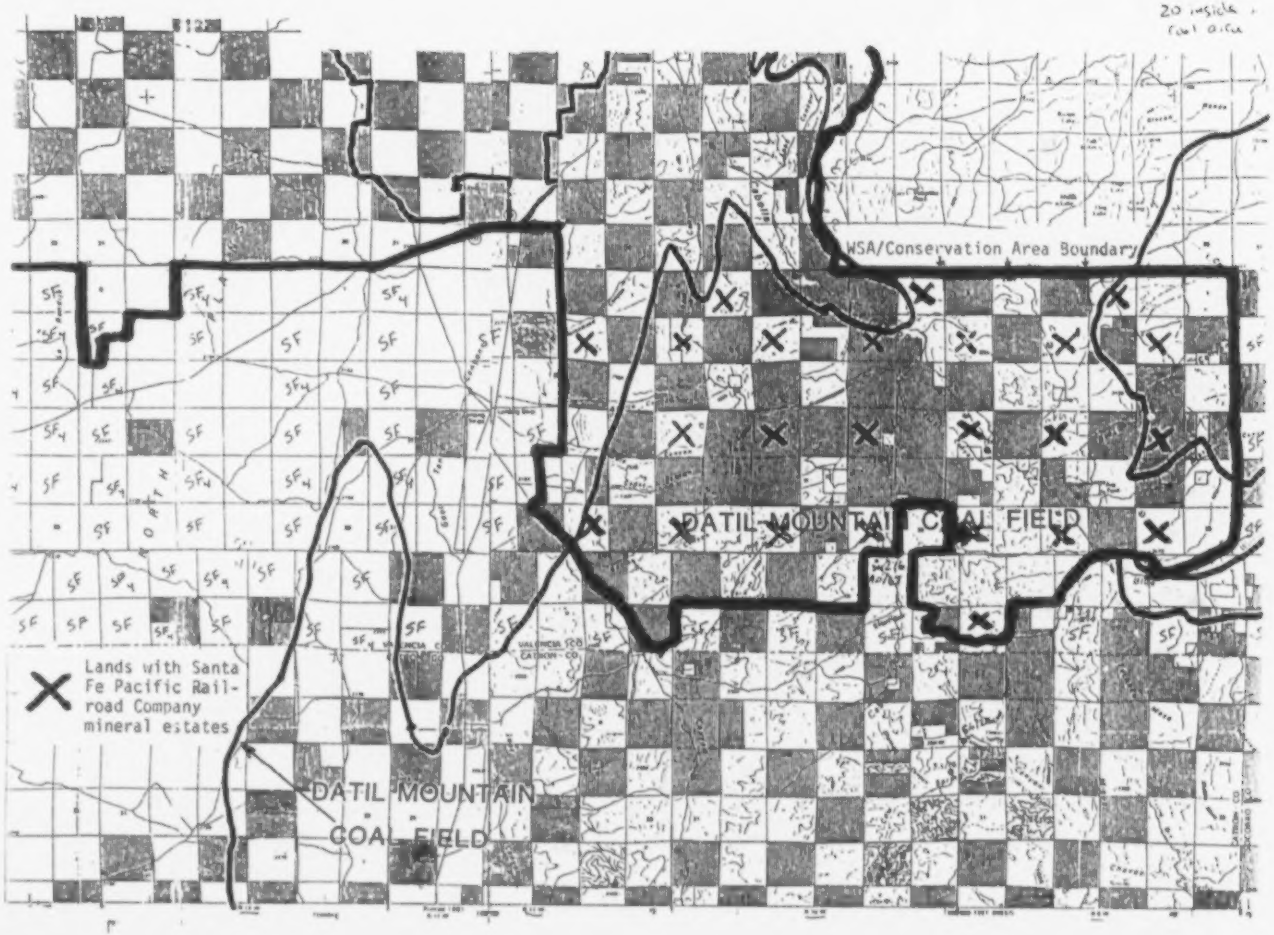
Santa Fe Pacific has demonstrated its willingness to cooperate with BLM and those other organizations which have worked for protection of the El Malpais and the adjoining lands. In doing so Santa Fe Pacific is merely continuing a tradition of cooperation with the Federal Government in exchanging land in order to accomplish various national objectives. One of the first exchanges was made in 1902 when President Roosevelt signed an agreement involving the exchange of over 500,000 acres of lands in what is now the Coconino National Forest. In return for these lands, Santa Fe Pacific Railroad Company received approximately 150,000 acres of in-lieu lands in Arizona.

This exchange was followed by many others, most notable of which was an exchange in which Santa Fe Pacific surrendered 375,000 acres of its land in what is now the Grand Canyon National Park for approximately the same acreage of federal lands elsewhere in Arizona. In 1929 similar exchanges were effected with the National Park Service in connection with rounding out the United States' holdings in the Petrified Forest National Park in Arizona, and the original Chaco Canyon National Monument in New Mexico. Just last month we completed an exchange with BLM in Arizona to add land to the Petrified Forest National Park which contained valuable Anazazi ruins.

We urge the Congress to recognize our willingness to cooperate when called on by the government, and to lay solid groundwork for future legislation by directing the Secretary to complete the exchange which BLM and Santa Fe Pacific have tentatively agreed to complete.

Thank you for this opportunity to testify. I will be pleased to try to answer any questions the Subcommittee may have on my testimony.

20 inside + coal area


WSA/Conservation Area Boundary
DATIL MOUNTAIN COAL FIELD
DATIL MOUNTAIN COAL FIELD
Caballo
VALENCIA CO.
CATRON CO.
NORTH
SF
Lands with Santa Fe Pacific Railroad Company mineral estates

Senator BINGAMAN. Thank you very much. Mr. Horn in his testimony this morning said, on page seven, "Just two weeks ago we were notified that an owner of subsurface mineral rights had discovered information which leads the owner to believe that there is a significant coal seam throughout the WSAs." Was he referring to yourselves?

Mr. BYERS. I believe so, Mr. Chairman. It is actually impossible for me to say that it is a significant coal seam. I cannot say that it is not significant. The coal is present in more than one seam, in fact, but as I indicated earlier, the level of the information available to us, to the geological survey, to the New Mexico Bureau of Mines, is very, very minimal.

What we are really asking for is an exchange out of our lands in the Datil Mountain Coal Field, which happens to be in these WSAs, into Federal minerals, also in the Datil Mountain Coal Field, but outside of the WSAs and outside of the Conservation Areas.

Senator BINGAMAN. If we were to go along with the exchange proposals that Mr. Horn outlined, giving the flexibility there, does that resolve your primary concern?

Mr. BYERS. We believe it will, so long as we are not faced with an exchange proposal which is just an interminable one. We are involved in one already at Chaco Canyon, with which you are familiar, and additional lands involving coal, which has taken over five years, and it is not over yet.

That is why we have recommended in our testimony that the Secretary be directed, the language be amended to direct the Secretary to complete this exchange within a time certain, from within the pool of lands which the BLM has identified.

Senator BINGAMAN. All right.

Senator Domenici.

Senator DOMENICI. I thank you very much, Mr. Chairman. We have discussed this issue, and I think you have stated it fairly and accurately here today. Let me see if I can interpret it for myself.

While you do not know the real extent of the minerals, in particular coal, rather than spend a great deal of time trying to determine what they are, if they are, you were suggesting that we authorize and direct a swap, and that it be in a similar geological area so that there is risk on both sides.

Mr. BYERS. That is correct.

Senator DOMENICI. You give up, without knowing precisely, and we give up without knowing precisely, but geologically it would be similar, and we will not wait around interminably to find out what is on either site. Is that fair?

Mr. BYERS. That is a very fair and accurate way of representing it, Senator Domenici.

Senator DOMENICI. Now do we have such land? I think you have told us there is in this pool, and is that land geologically such that you are willing to take a risk on it at this point?

Mr. BYERS. Senator, that land is geologically such that we would be happily willing to take a risk on it. The BLM has, as I said, indicated about 30,000 acres for the 15,000 that we own. Honestly, we would be happy to have the bill identify virtually an exact acreage in exchanges out of that.

You are going to run into a problem if the BLM is required to go in and do the detailed drilling and the detailed field work necessary, you are going to be having to ask them to go into the very areas which you want to put in protective status, and disturb them for roads and drilling and drill pads and so forth. And I do not believe that is what you intend as well.

Senator DOMENICI. How soon do you think the approach that you recommend could be accomplished?

Mr. BYERS. The approach that we recommend——

Senator DOMENICI. The one you are telling us about, and we assume Mr. Horn is asking us for the same thing. There must be some things that have to be done nonetheless, by way of surveys, some kind of assessments.

Mr. BYERS. BLM could easily do this, I believe, strictly through maybe a cursory field exploration, without drilling, and through a literature search. This is a process which, I do not, I would have to make this subject to BLM's disagreeing with me, but it should not take more than a few months.

Senator DOMENICI. I thank you very much and I appreciate your willingness to work with us, and I think it is mutual, we are going to try and get the thing done. Thank you so much.

Senator BINGAMAN. Thank you very much. We appreciate the testimony.

We have two other panels interested in S. 56. Let me ask the first panel to come forward. I would ask if all of them would come forward: Abe Pena, who is with the Chamber of Commerce in Grants; Jackie Fisher, the Mayor of Grants, New Mexico; Joe Murrietta, Cibola County Manager; Warren Mathers, the Mayor of Milan; Pete Maldonado, Trustee of Milan; Jim Crain, from Milan; and Tweeti Blancett, who is the City Manager in Aztec.

Do we have enough chairs for everyone to sit? If not, pull up a chair from the back there, if you please would.

Mr. PENA. Mr. Chairman.

Senator BINGAMAN. Let me just say that we welcome all of you here as witnesses. I know you have traveled a long way in order to be here to give your testimony. Let me just indicate that, to the extent possible, any of you who have written statements that you would like to have included in the record, we of course will do that. And of course we would like you to summarize and make the major points that you feel are essential for this subcommittee to hear.

STATEMENT OF ABE M. PENA, GREATER GRANTS CHAMBER OF COMMERCE, GRANTS, NM

Mr. PENA. Thank you very much. It is really a pleasure to be here, Mr. Chairman, Senator Domenici.

My name is Abe Pena and I am here representing the Greater Chamber of Commerce of Grants, New Mexico, and on behalf of the Chamber we have a little souvenir from northwestern New Mexico, and with your permission, Mr. Chairman, we would like to distribute to the Members of the Subcommittee miniature Indian pots from northwestern New Mexico and the other Members of the Committee that are not here, also plus as far as they will go with the staff.

So, that's a little gift from our Chamber.

Senator **Bingaman**. Thank you very much. We will see to it that the other Committee members get theirs.

Mr. **Pena**. Please do so. Did you hear me, young lady? Also the other members of the staff, as far as they will go.

We have submitted our statements for the record and we are now—this will be a brief statement that we are presenting.

Gentlemen, our Chamber wants to go on record supporting Senate Bill 56 that establishes the Masau Trail, the El Mapais National Monument, and the Grants National Conservation area.

We strongly believe that our beautiful and culturally rich northwestern New Mexico, which has suffered severe economic shocks from the paralysis of the uranium industry and the oil and gas industries, will greatly benefit from an expanding tourist industry, creating economic activity and jobs for our people, and at the same time providing visitors from near and far with insights into the history of our Indian, Hispanic and Anglo cultures.

The Masau Trail is a novel concept. We are excited about it. We have several wonderful monuments, Indian pueblos and natural phenomena which will be linked for promotional purposes by agencies of the Federal, State, county, municipal governments, as well as entities from the private sector.

At the risk of sounding like I am boasting, I have had the pleasure of living and working in five countries outside of the United States and have traveled to approximately 50 countries around the world, and I am convinced that the area covered by the Masau Trail is one of the most beautiful and most colorful in the world.

My ancestors and forebears came to the area with the Spanish colonists in the early 1700's. We are livestock ranchers and have known and lived in the area of the Masau Trail and El Malpais, which means Badlands, for almost 300 years.

We have been, and are neighbors to the Navajo, the Laguna, the Acoma and the Zuni Indians. We have lived amicably, honoring and respecting one another, and when the area became a territory of the United States in 1847, we welcomed the Anglo culture.

Today we all work essentially towards the same goals, aware there are issues in which we differ, but we generally accommodate each other as long as the outcome favors the greatest number of our residents.

Our community of Grants on Interstate 40 averages a count of 13,000 vehicles a day and we expect it to be the hub and center for the Masau Trail. Grants and our neighboring village of Milan are dynamic and friendly communities, prepared to welcome and host visitors from near and far to our area.

I have visited with several of my fellow ranchers. Most of these are ranchers in the northern part of the Monument and the area, not the larger ones to the south who I know also, and I have visited with these gentlemen whose lands and grazing will be affected by this Bill.

Most of them are for the Bill. However, since their livelihood is directly affected, they are naturally apprehensive. Most of them feel that Senators Domenici and Bingaman will protect their interests. Nevertheless, like most users of public lands everywhere, they look at federal and state agency officials with some suspicion when it comes to grazing regulations.

Gentlemen, in conclusion I should like to ask you, as you are supporting this bill, to move it favorably to a conclusion in the Senate. I thank you.

Senator **Bingaman**. Thank you very much for that testimony. I appreciate it.

Perhaps we could have each of the witnesses testify and then, if Senator Domenici or I have questions at the time, we could ask them.

I guess next would be Jackie Fisher, the Mayor of Grants. We are glad to have you here. Please go ahead.

STATEMENT OF JACKIE FISHER, MAYOR, GRANTS, NM

Mr. **Fisher**. Thank you, Mr. Chairman, Honorable Senator Pete Domenici and Members of the Subcommittee. I am Jackie Fisher. I am the Mayor of Grants, New Mexico, and I welcome this opportunity to address the proposed legislation, Senate Bill No. 56 known as the Masau Trail Bill which included the El Malpais National Monument and the Grants Conservation Area, as vital and integral components.

Approval of this legislation will place a cloak of security over a vast area of the most pristine lava flow in these United States. Exploitation and destruction will never be given the opportunity to occur and preservation will be accomplished.

The city of Grants, which is the hub of the Masau Trail, is located immediately north of the El Malpais and on Interstate 40 between state roads 117 and 53 which are access routes to the eastern and western boundaries of the proposed national monument and the conservation area.

This location provides access to observe many of nature's natural wonders encompassed in this bill which are in the immediate vicinity to the four and one half million vehicles which traverse I-40 each year. The location of Grants in relation to the many points of interest on the Masau Trail make it the hub of the trail, and the ideal location for the multi-governmental, multi-agency visitors' center recommended in this legislation.

Grants, New Mexico, as you are well aware of, experienced a boom in the mining of uranium and the bedroom community for the operation of approximately 32 mines and five mills processing the mined ore into yellowcake. With the collapse of this industry, beginning in 1981, the mineral belt suffered a loss of over 7,000 high paying mining jobs and over $75 million in assessed valuation in our county tax rolls.

Today there is only one producing mine and a partially operating mill to process the ore, providing less than 200 jobs. Unemployment in this area, currently at 17 percent, has been as high as 27 percent and sometimes higher. The reduction to 17 percent has been attributed both to people leaving the area, plus our industrial development efforts which have attracted three small manufacturing companies to the area, plus assisting in the expansion of two existing companies to provide an added 200 jobs which pay much less.

In our neighboring Pueblos of Acomo, Laguna and Zuni, unemployment has reached an unprecedented 70 percent during this period.

We believe that in addition to the preservation of the natural pristine geological phenomena contained in the proposed El Malpais National Monument, the economic benefits to the city of Grants and its surrounding area will be tremendous.

I have added a little summary here. We are also proud to announce the only event of its kind in the world that we host is the Mount Taylor quadrathlon, and we held it last weekend and it was represented by 30 foreign countries, and approximately one-half of the United States were represented in this event.

The event consists of bicyling, running, cross-country skiing and snowshoeing, and it is over a 50-mile course which goes around the 11,300 foot beautiful Mount Taylor area. And this year we were also fortunate to have such distinguished guests as Senator Bingaman, Miss Universe, and our own Governor Carruthers.

I would like to take——

Senator Bingaman. Let me just interrupt for my colleague's benefit, telling him that my part in that was, I wrestled a grizzly bear up at the top of Mount Taylor. The others just ran up there and back. [Laughter.]

Senator Domenici. Did you do all right?

Senator Bingaman. I'm still here. That's proof positive.

Senator Domenici. I need to do that and get in shape, don't I, but I'll have to run up the mountain, right?

Senator Bingaman. I would say that the real attraction that day was to meet Miss Universe in Grants. She was there on a visit which also was on the occasion of the quadrathlon, and the Mayor and I both had the opportunity to greet her.

Senator Domenici. Did he wrestle a bear too?

Senator Bingaman. He didn't have to, since I did.

Mr. Fisher. They didn't give me too much of an opportunity to talk to the lady Governor.

I would like to thank you for the opportunity of having me here, and also to invite the rest of the Members of this Committee to visit our beautiful state, and especially the Grants-Milan area, of course, where you will be treated like a true amigo. Thank you very much.

Senator Bingaman. Thank ~~you~~ very much, Mayor Fisher.

Our next witness is Jim Crain from Milan.

Go right ahead.

STATEMENT OF JIM CRAIN, MILAN, NM

Mr. Crain. Mr. Chairman, Senator Domenici, my name is Jim Crain and I am a resident of Milan, New Mexico and I, along with my esteemed colleagues here, come before you on a twofold mission. First, Senate Bill 56 to establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation Area in the State of New Mexico.

These unique formations are rich in ecological knowledge and magnificent remains that have survived the long, long journey through the mist of time. They are nature's ancient artifacts and should not be forgotten.

The area lies southeast of Grants, New Mexico, on I-40 and the fabled Masau Trail. It is a rich and splendid wilderness in which Indians lived with nature in harmony for the balance of many centuries.

El Malpais, these lava flows are sanctuaries for many species of wildlife which are an integral part of the ecology of the crinkled mountain ranges stretching south, east and west in this area. The immense panorama is invigorating and can be absorbed spiritually as well as mentally and emotionally.

It is a habitat for plants and animals, the place where grasses and birds, reptiles and insects all live in a complex relationship not only with the lava rocks and soil beneath them, but also with each other.

We are petitioning this Committee to establish the El Malpais National Monument, the Masau Trail and the Grants National Conservation Area for the benefit of future generations.

I suggest that it be noted also that it is a land of treasure and romance and encompasses historic and prehistoric sites as the Acoma Pueblo, a 300 year old inhabited city located on a 375 foot high mesa; the Laguna Pueblo, the Ice Caves, Rainbow Bridge, Mount Taylor, El Morro National Monument, and a countryside where there is still much of wild nature to cherish and a multitude of other wondrous sites and cultures of bygone eras still exist, tying together physiography and biomes with the realization that they don't necessarily come packaged into the same neat categories in other parts of the world.

History by now should have taught us not to underestimate the potential loss of our natural heritage for failing to act in time. We are, of course, sending a warning that in effect we must now act to preserve for future generations these natural wonders bestowed on a free people and a great nation.

Secondly, by passing legislation on Bill S. 56 you also will be helping a community dedicated to free itself from unemployment and economic anxiety and desperation and despair due to failing and closure of mineral and uranium mines and their related businesses a few years back, and in part we will romance tourist trade in this area.

Unemployment in the Grants-Milan area is more than double that noted for the state figures of approximately 27 percent. Even so, there is no more cynicism, no more dissatisfaction, disillusionment. On the contrary there is an intensifying quest with an ever-increasing desire by the people and local government to turn the situation around.

It seems an incredibly difficult task but we are making progress, and our being here today is an outstanding example of our dedication and unification to move forward toward a stabilized economy in the area.

We come not seeking charity, but to give, give an everlasting treasure to our children and to our children's children, and an economic boost for our community as a whole.

We thank you for your time and patience.

Senator BINGAMAN. Thank you very much for that testimony, Jim. We appreciate it.

Next is Joe Murrietta, Cibola County Manager.

Go right ahead.

STATEMENT OF JOE MURRIETTA, CIBOLA COUNTY MANAGER, GRANTS, NM

Mr. MURRIETTA. On behalf of the Board of County Commissioners of the newest county in the United States, Cibola County, I would like to thank you for this opportunity to address you regarding the Masau Trail Bill. I have presented some written testimony which I will summarize at this time and hope that will be included in the record.

As you have said, my name is Joseph Murrietta. I am the Cibola County Manager and a proud and lifelong resident of an area in New Mexico where there is a variety of significant historical and cultural sites. It is our hope that we will be able to promote public awareness of these sites and share their beauty and historical value with all visitors to our region.

In order to illustrate the diversity of support for this proposal from our area, and the truly multi-cultural composition of the citizens of Cibola County, please note that I represent an enthusiastically supportive Board of Commissioners composed of two Native Americans, a Hispanic-American, and two Anglo-American members. We represent highly responsible constituents who are more than willing to do their share relative to any worthwhile project, and we are prepared to create a truly educational and scenic attraction in which we can all take pride.

As you are aware and have been told repeatedly, our local area suffered economically from the almost complete demise of the uranium mining and milling industry in New Mexico. I can personally speak concerning the dramatic effect which the cessation of extensive uranium mining and milling operations has had on our region, as I worked for such a firm for over 15 years. Prior to 1981 Anaconda Minerals Company, the firm for which I worked, employed over 1,300 residents of our area. There are only six employees at that operation today.

Although the 1980 census lists the population of Cibola County as 30,000, I estimate that the actual number of county residents today would very likely be in the neighborhood of only 23,000. Such was the impact of the loss of our primary industry.

As a member of the Grants-Cibola School Board for the past ten years, I have also been closely associated with the effect caused and the loss of student population created by the loss of job opportunities. Our school district's student enrollment dropped from 5,912 students for the 1978-79 school year to 3,803 students for the 1985-86 school year, a loss of over 2,100 students. Enrollment figures for this year, in February of this year, were 4,203.

We feel that these latest figures reflect a stabilization in our enrollment and the overall effectiveness of local efforts to promote economic development, tourism, and our municipalities as potential retirement communities, efforts which have created additional employment in the Grants-Milan area.

It is our belief that we are on the path to economic recovery and we continually explore any additional avenues and alternatives which could possibly prove to advance and to accelerate the recovery process. Senate Bill 56 would surely have a major beneficial economic impact throughout a large portion of our state and serve to augment our local efforts.

An effective promotional program for the Masau Trail plan would result in a dramatic increase in tourism activity in the many sites to be included within the proposed trail scheme. Many areas will thus receive benefits from this Act. Seldom is there such an opportunity to aid so many different communities with so small an investment by our government.

In addition to the economic benefits to be realized with the passage of this Bill, it is indeed significant to note that your favorable action on our behalf would result in the preservation and conservation of several important cultural and natural resource areas which could possibly be lost and unavailable for future generations to experience and enjoy.

We must appreciate the importance of these national assets and take the necessary steps to protect them while we still can. Help us promote in-country tourism and keep our hard-earned dollars at home in the United States. We have the attractions, their access, and the interest required. Let us team together and create something for the future, using what was left us from the past.

Thank you, on behalf of the citizens of Cibola County.

[The prepared statement of Mr. Murrietta follows:]

JOHN V. HORACEK
Chairman
BENNY COHOE
1st Vice Chairman
MARGE EICHMAN
2nd Vice Chairman
FRED MIRABAL
Member
FREDDIE SCOTT
Member

Cibola County Commission
515 W. High Street
Grants, New Mexico 87020
Phone (505) 287-9431

JUNE 19, 1981
J.R. MURRIETTA
County Manager

February 19, 1987

TO:
The Honorable Dale Bumpers
Chairman, Subcommittee of Public Lands,
National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

FROM:
Cibola County Commissioners
515 West High Street
Grants, New Mexico 87020

Re: Masau Trail Hearing

MR. CHAIRMAN AND MEMBERS OF THE PUBLIC LANDS SUBCOMMITTEE:

On behalf of the Board of County Commissioners of the newest County in the United States, Cibola County, I would like to thank you for this opportunity to address your sub-committee regarding the Masau Trail Bill under consideration here today.

I am Joseph Murrietta, Cibola County Manager, and a proud life-long resident of an area in New Mexico with a variety of significant historical and cultural sites. It is our hope that, with your favorable recommendation, we will be able to promote public awareness of these sites and share their beauty and historical value with all visitors to our region.

In order to illustrate the diversity of support for this proposal from our area and the truly multi-cultural composition of the citizens of Cibola County, please note that I represent an enthusiastically supportive Board of Commissioners composed of two Native-Americans, a Hispanic-American, and two Anglo-American members. More specifically, the two Native-Americans are representatives of the Laguna and Navajo Tribes.

The value of this act to establish the Masau Trail, the El Malpais National Monument and the Grants National Conservation Area is of such importance to the citizens of our district that you may be assured of any and all required cooperative agreements and committments from all public entities within our area. We represent highly responsible constituents who are more than willing to do their share relative to any worthwhile project. We are prepared, with the passage of this legislation, to create a truly educational and scenic attraction in which we can all take pride.

As you are very likely aware, our local area has suffered economically from the almost-complete demise of the uranium mining and milling industry in New Mexico. It is estimated that the shutdown of the various mines and mills around our community resulted in the loss of over 7,000 jobs for our citizens. The 7,000 positions which were eliminated represented approximately 50% of the total local job opportunities available to our work force at that time.

I can personally speak concerning the dramatic effect which the cessation of extensive uranium mining and milling operations had on our region as I worked for such a firm for fifteen years. Prior to 1981, Anaconda Minerals Company, the firm for which I worked, employed over 1,300 residents of our area. There are only 6 employees at that operation today.

Although the 1980 census lists the population of Cibola County as 30,000, I would venture to guess that the actual number of County residents today would very likely be in the neighborhood of only 23,000. Such was the impact of the loss of our primary industry.

As a member of the Grants/Cibola School Board for the past ten years, I have also been closely associated with the effect caused and loss of student population created by the loss of job opportunities. Our school district student enrollment dropped from 5912 for the 1978-79 school year to 3803 for the 1985-86 school year. A loss of 2109 students. Enrollment figures for February of this year were 4203. We feel that these latest figures reflect a stabilization in our enrollment and the overall effectiveness of local efforts to promote economic development, tourism and the municipalities as potential retirement communities, efforts which have created additional employment in the Grants-Milan area.

As I just noted, concentrated efforts by public officials and private citizens throughout the County have resulted in the attraction of new and diversified industries to our area. Although the number of new jobs generated has not had the anticipated impact to this point, we are confident that our continued efforts and the cooperation and attitude of our citizens will prove highly successful in the future.

It is our belief that we are on the path to economic recovery and we continually explore any additional avenues and alternatives which could possibly prove to advance and to accelerate the recovery process. We are not, nor will we ever be, satisfied to sit back and wait for things to happen for us. We are willing to work for whatever it takes to ensure continual and progressive growth for our region.

Senate Bill 56, co-sponsored by Senators Domenici and Bingaman, would surely have a major beneficial economic impact throughout a large portion of our State and serve to augment our local efforts. An effective promotional program for the Masau Trail plan could quite easily result in a dramatic increase in tourism activity in the many sites to be included within the proposed trail scheme. Many areas will thus receive benefits from this act.

Seldom is there such an opportunity to aid so many different communities with so small of an investment by our government.

In addition to the economic benefits to be realized with the passage of this bill, it is indeed significant to note that your favorable action on our behalf would result in the preservation and conservation of several important cultural and natural resource areas which could possibly be lost and unavailable for future generations to experience and enjoy. We must appreciate the importance of these national assets and take the necessary steps to protect them while we still can.

Help us promote in-country tourism and keep our hard-earned dollars at home in the United States. We have the attractions, their access and the interest required. Let's team together and create something for the future using what was left us from the past.

Thank you for your kind attention and, on behalf of the citizens of Cibola County, your sincere, and hopefully favorable, consideration of the Masau Trail Bill will be truly appreciated.

Respectfully submitted,

J.R. Murrietta
Cibola County Manager

Senator BINGAMAN. Thank you very much for that testimony.

Our next witness is Ms. Blancett, who is the City Manager of Aztec. We appreciate you being here very much.

Go right ahead.

STATEMENT OF TWEETI BLANCETT, CITY MANAGER, AZTEC, NM

Ms. BLANCETT. Mr. Chairman, Senator Domenici, northwestern New Mexico sent one representative and that is me. I submit letters into your record from the County of San Juan and also the Historic Main Street Program in Aztec, the Chambers of Commerce and the cities in northwestern New Mexico.

We would like to say that we give you unreserved support. We see no thing that this can do except good for northwestern New Mexico and San Juan County.

We would also like to offer you the Visitor Center that is presently in northwestern New Mexico at the world-class Aztec ruins as a possible gateway from the north and the northwest. We as a city are presently working on expansions and developments of this present site, and we would encourage you to use this if it would benefit your overall passage of the bill and again, if there is anything northwest New Mexico can do, please don't hesitate to call because we will be willing to support you.

[The prepared statement of Ms. Blancett follows:]

City of Aztec
WINNER ALL AMERICAN CITY AWARD

201 WEST CHACO
Aztec, New Mexico
87410
PHONE 505 334 9456

Bob Shumway, Mayor

February 16, 1987

Honorable Dale Bumpers
Chairman, Subcommittee of Public Lands,
  National Parks & Forests
Committee on Energy & Natural Resources
United States Senate
Washington, D.C. 20510

Dear Honorable Bumpers:

The City of Aztec wishes to add our support for the Masau Trail Legislation. Aztec, New Mexico houses the Northern most Anasazi Ruins in New Mexico. We provide a natural location for welcoming the travelers from the West and Northwest. Our ruins are world class and provide the people of today a glimpse of yesterday.

The Aztec Ruins is surrounded by beautiful farm lands and many of the acequias used by the Anasazi are still in use today. The City has a beautiful setting for a Vistors Center which we would like to offer for your consideration.

Our major industry is oil and gas. The decline in this industry has caused 21% unemployment in our county. Our City believes this project will be an economic boom for the area and will allow us to welcome additional travelers to our area thereby helping to revitalize our economy.

Sincerely yours,

Tweeti Blancett

Tweeti Blancett
City Manager

TB/cg

Aztec Chamber of Commerce

Uniting the Past and the Present for a Future

AZTEC — Home of the Aztec National Monument with the World's only Restored Great Kiva

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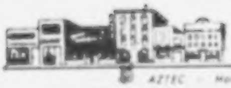

February 18, 1987

The Honorable Dale Bumpers
Chairman, Subcommittee of Public Lands,
National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Bumpers,

The Chamber of Commerce of Aztec, New Mexico strongly supports and encourages the development of the Masau Trail. The creation of this designated route to connect the major national parks and monuments of the state of New Mexico will allow these National treasures to be enjoyed by thousands of more people. Any additional visits that might accrue to Aztec Ruins National Monument will of course benefit the City of Aztec. We are proud of our "World Class" Ruins and are excited at the possibility of sharing them with additional visitors the Masua Trail would bring to our area.

Additionally, the Chamber of Commerce would encourage your Committee to consider the desination of the Aztec Ruins National Monument visitors center as a northernmost National Visitor's Center for the Masau Trail. The existence of the facilities and the geographic location of being a natural starting place in the north to begin the experience of the Masua Trail, lend themselves practically and economically to the creation of a visitors center here at the Aztec Ruins.

We are excited by the work you and your committee are doing in the consideration of this project. We will support and encourage your work in any way we can.

Sincerely Yours,

Wm B English

William B. English
President, Aztec Chamber of
Commerce

WBE:be

R. E. KARLIN
Chairman

ROBERT A. SMITH
Chairman Pro Tem

DONALD BENALLY
Member

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JIM NEBLETT
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505-334-9481

San Juan County

112 S. MESA VERDE
AZTEC, NEW MEXICO 87410

February 18, 1987

Senator Pete V. Domenici
SD 434
Washington, DC 20510

RE: Masau Trail Visitors Center

Dear Senator Domenici,

The Board of County Commissioners was excited to learn of the promotion of the Masau Trail in the northwestern quarter of the State of New Mexico.

For the past two years the County has been working steadily upon a comprehensive plan which in the area of economic development has looked upon this route as being a key ingredient to bringing clean economic development and tourism to this part of New Mexico.

The Board wishes to go on record as indicating the importance of the Aztec Ruins National Monument located in the city of Aztec, as being a key ingredient to this and other loops involving tourism to our prehistoric sites in this area.

The County has also been working closely with Chaco Culture National Historical Park in bringing a new route from Nageezi to State Highway 57 as the northern most part of Highway 57 would be extremely difficult and highly costly to correct the vertical and horizontal alignments in the grade of that road. We would encourage use of the new road through the Nageezi area for this loop.

The Board also wishes to go on record in support of a visitors' center to be located at Aztec Ruins National Monument as it is situated in the center of the northern section of the Masau Trail and the Aztec Ruins serves as a starting point for travelers to Chaco Historical Park and is easily accessible and possesses the only fully restored Great Kiva of the prehistoric Anasazi Indians.

If there is anything the Board of County Commissioners can do to be of assistance in the promotion of the Masau Trail please do not hesitate to contact us.

Sincerely,

Jim Neblett
County Manager

JN:cr

RESOLUTION

Of the Aztec Main Street Association Board of Driectors

WHEREAS, The Masau Trail shall benefit and promote tourism in the Northwestern quarter of the State of New Mexico, and

WHEREAS, the Masau Trail shall provide tourists with valuable guidance to the major historical, natural and cultural sites of Northwest New Mexico, and

WHEREAS, Aztec Ruins National Monument is the second most significant prehistoric site in New Mexico with more than 60,000 vistors annually, and

WHEREAS, Aztec Ruins National Monument is the fourth most visited National Park or Monument in New Mexico, and

WHEREAS, Aztec Ruins National Monument is situated at the center of the Northern section of the Masau Trail, and

WHEREAS, Aztec Ruins National Monument is located in the City of Aztec, New Mexico and the City of Aztec is the Northwest gateway to New Mexico for tourists coming from Mesa Verde National Park, Hovemweep National Monument, historic Durango, Colorado, and Arches National Park, and

WHEREAS, Aztec Ruins National Monument and the City of Aztec are in close proximity to Chaco Culture National Historical Park, which is the most significant prehistoric site in New Mexico, and

WHEREAS, Aztec Ruins National Monument possesses the Northernmost dwellings of the prehistoric Anasazi Indians which are a major part of the Chaco system, and

WHEREAS, Aztec Ruins National Monument serves as a starting point for travelers to Chaco Culture National Historical Park because it is easily accessible and possesses the only fully restored Great Kiva of the prehistoric Anasazi Indians.

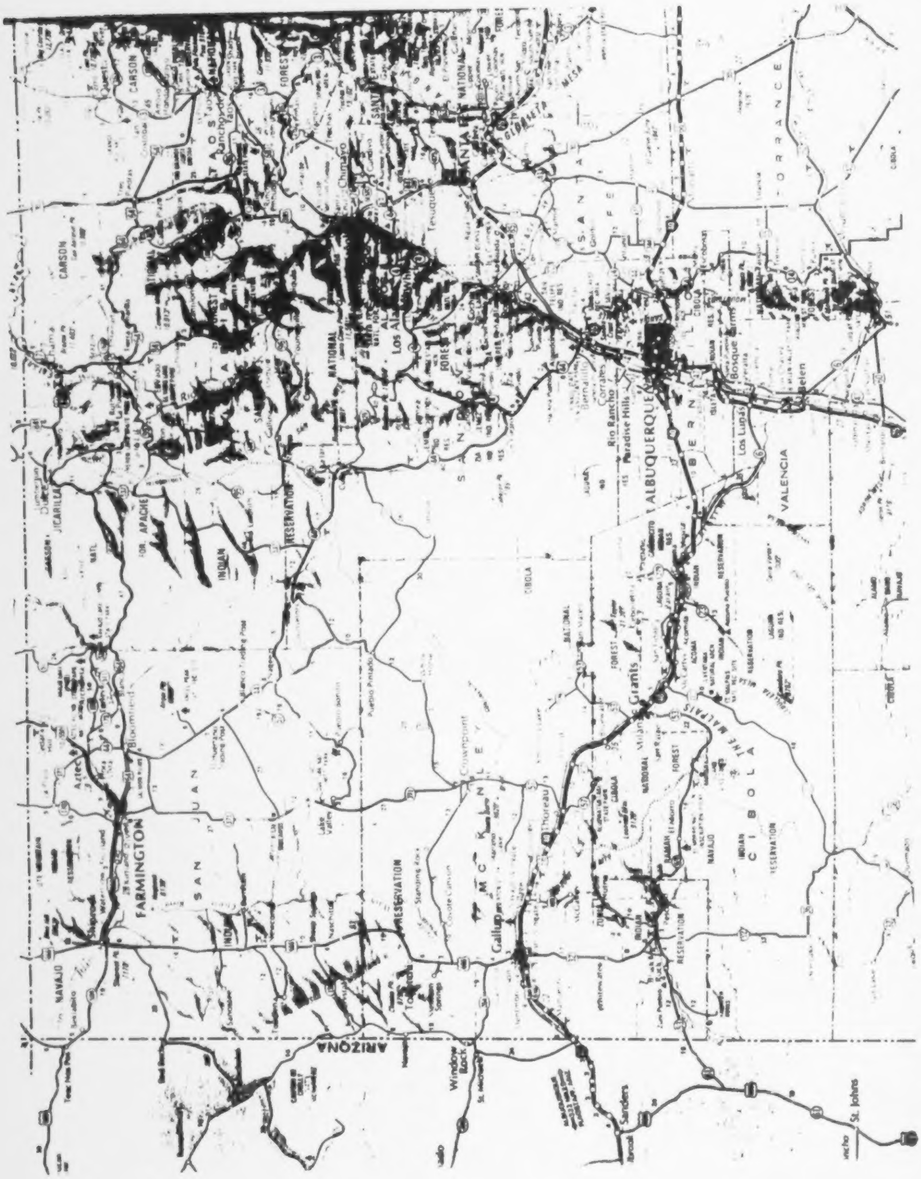
NOW BE IT RESOLVED that the Aztec Main Street Association Board of Directors, founded under the direction of the National Trust for Historic Preservation, fully supports creation of the Masau Trail, and

The Aztec Main Street Association Board of Directors encourages the designation of Aztec Ruins National Monument as Vistor Center for the Masau Trail, modifications, and improvements thereof to accomplish it, and

The Aztec Main Street Association encourages addition to the Masau Trail, as initially approved in legislation, New Mexico Highway 44 from Aztec Ruins National Monument South to Blanco Trading Post and New Mexico Highway 57 from Blanco Trading Post to Chaco Culture National Historical Park.

Bill English

BILL ENGLISH, President
Aztec Main Street Association Board of Directors


FARMINGTON
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Crownpoint
Pueblo Pintado
Thoreau
Gallup
Standing Rock
Coyote Canyon
Lake Valley
McKINLEY
ZUNI
ARIZONA
Window Rock
Sanders
St. Johns

Senator **Bingaman**. Thank you very much. We appreciate that. Next is Warren Mathers, the Mayor of Milan, New Mexico.

Mr. Mathers informed me recently that he had the misfortune of trying to teach me something when I was going through elementary school. It obviously did not work, but we appreciate your testimony here today.

STATEMENT OF WARREN MATHERS, MAYOR, MILAN, NM

Mr. **Mathers**. Thank you, Mr. Chairman, Mr. Domenici.

I did try to teach you something. The reason it did not work, you already knew more than I did, Senator.

Senator **Bingaman**. I cannot believe that.

Mr. **Mathers**. As you said, my name is Warren Mathers and I thank you for the opportunity to be here today to make a brief statement in support of Senate Bill 56. I speak on behalf of the village of Milan and its citizens.

The village of Milan is located next door to the City of Grants, and in my capacity as Mayor of our small city I am pleased to bring you this endorsement which represents the thinking of our community leaders and citizens. We are highly pleased with the purpose and intent of the bill in the matter of the authorization of the Masau Trail which will bring great benefits, we recognize, to our immediate area and we believe also, all northwestern New Mexico.

We are convinced that the estabishment and development of a multi-agency center to provide coordinated information and exposure to all the many sites in this area to the public is a vital key to the proper development of the region. We also believe that the most appropriate and suitable location for the multi-agency information center is near the city of Grants, the hub of the Masau Trail.

We have long been in support of efforts to provide proper conservation, protection and development of the scenic, recreational and cultural resources of El Malpais. We believe that S. 56 provides a very good plan for accomplishing this enduring benefit for our entire nation.

We also believe that great benefits will result from the passage of S. 56 for the economy of the entire region and in particular, specifically, for Cibola County. We believe that the establishment of the trail, monument and conservation area will encourage and assist the pueblos of Acoma, Laguna and Zuni, the city of Grants, the village of Milan, the county, and many other agencies in our efforts to promote tourist services and business to a level to make it very significant to the economic future of all our citizens.

Thank you for the opportunity.

[The prepared statement of Mr. Mathers follows:]

Mr. Chairman, Members of the Sub-Committee, Ladies and Gentlemen:

My name is Warren Mathers, and I thank you for the opportunity to come here today and make a brief statement in support of Senate Bill 56 on the behalf of the Village of Milan and its citizens. The Village of Milan is located next door to the City of Grants and in my capacity as Mayor of our small Village I am privileged to bring to you the endorsment of our community leaders and citizens of Senate Bill 56.

We are highly pleased with the purposes and intent of the bill in the matter of authorizing the Masau Trail, which will bring great benefits to the entire Northwestern quadrant of New Mexico. We are convinced that the establishment and development of a multi-agency center to provide co-ordinated information and exposure of all the many sites in this area to the public is a vital key to the proper development of the region. We also believe that the most appropriate and suitable location for the multi-agency information center is near the City of Grants -- the Hub of the Masau Trail.

We have long been in support of efforts to privide proper conservation, protection and development of the scenic, recreational and cultural resources of EL MALPAIS. We believe that S.56 provides a very good plan for accomplishing this enduring benefit for our entire nation.

We also believe that great benefits will result from the passage of S.56 for the economy of the entire region and for Cibola County specifically. We believe that the establishment of the Masau Trail, El Malpais National Monument and the Grants Conservation Area will encourage and assist the Pueblos of Acoma, Laguna and Zuni as well as the City of Grants and the Village of Milan to increase and build employment and business opportunity in the tourist services to a level that will be very significant in the economic future of all of our citizens.

Senator BINGAMAN. Thank you very much for the testimony.

The final witness on this panel is Pete Maldonado who is a trustee of the village of Milan.

Pete, we are glad to have you here.

STATEMENT OF PETE MALDONADO, MAYOR PRO-TEM, MILAN, NM

Mr. MALDONADO. Thank you, sir. Chairman and Member, which is Pete, I have known Pete for many years from Albuquerque, since he was a little City Commissioner, a lawyer first, and a City Commissioner. Now he's a big wheel here in Washington.

Isn't that correct, Pete?

Senator DOMENICI. I thought you were going to say you played baseball with me.

Mr. MALDONADO. You are a little younger than I am, Pete. I passed the sixty mark and you have not gotten up to that yet.

My name is Pete Maldonado and I got promoted to Mayor Pro Tem of Milan. I got appointed to that position, and I welcome the opportunity to appear here this morning in support of Senate Bill 56, on behalf of our citizens in Milan.

Milan is next to Grants, just over the bridge. We are the other side of the track, what they call it. When we used to live in Albuquerque the other side of the track was Williams and Villejas, and that is where we are at.

Senator DOMENICI. And Martinez town, do not forget.

Mr. MALDONADO. And Martinez, and really we do not have the great, big name that Grants has, you know, and we do better things than they do really. The economy in our area, in our village, has been greatly damaged by the collapse of the mining industry. We are anxious to see and encourage the diversified development of all our human and natural resources for the benefits of our citizens.

It is really hard for us, especially in a town where there is no jobs. Our jobs are real low. We have to hide most of the time to get away from people that want a job. Ask Jackie Fisher if you do not believe this.

We believe the passage of Senate bill 56 will do much to improve the economic opportunity to our citizens of the area, and at the same time will preserve for all Americans a great national heritage. We strongly endorse this bill 56 and all its provisions.

I want to thank you for your kind attention, and Viva Nuevo Mexico. I am glad you two are from New Mexico.

Senator BINGAMAN. Thank you very much, Pete.

Let me say, I do not have questions to submit at this point but I would just repeat the thanks for all of you being here, and indicate I am sure that all of us in the delegation are anxious that this legislation accomplish what you folks who actually live in the area think is important. So, any suggestions you have that come out of this hearing, or as the legislation goes forward in the next few months, I think we would be anxious to hear those so that we can incorporate those suggestions into what the final product is.

Senator Domenici.

Senator DOMENICI. Thank you very much. Let me just say this to all of you. I know it has been a sacrifice and an expense for you to come up here, but we all appreciate it very much. We think it is helpful and we think it points up the unity of the community of interest in that part of New Mexico.

Secondly, while it is not very easy to extract concessions from the Federal Government when you think you have been wronged—I mean, we cannot sit up here and do that all the time, let me assure you that I think the uranium industry has been done an injustice nationally because I do not think our laws have been enforced.

I do not think we are supposed to be bankrupt on uranium before something is done. So, I am going to do everything to make sure the administration understands that the visitor centers and a few extra people working for the National Park Service is mighty small recompense to our community for what has happened to us over the last few years.

Now, I know we cannot do this across this land every time we think something has gone amiss, but in this case I really do not believe our administration should stand in the way of this based upon a concern for some precedent. I mean, we have some unprecedented things too that are pretty bad.

When it comes to the first time in 35 years without an operating uranium mine in the center of uranium activity for the whole free world it makes you wonder what has happened. So we will do our share and hopefully we can make a few adjustments with the Administration and get on with passing this bill. Thank you very much.

Senator BINGAMAN. Thank you all. We appreciate it.

Our final panel dealing with Senate Bill 56, and then after that we will have the witnesses who were here on Cypress, but the final panel is Chuck Wiggins from the New Mexico BLM Wilderness Coalition, John Somers, Rio Grande Chapter of the Sierra Club, Jim Norton of the Wilderness Society, and Dave Candelaria from Grants.

If they would all come forward, we would be glad to hear from them.

Let me start by asking Mr. Candelaria if he would go ahead and testify. Mr. Candelaria is from Grants, and has traveled here from New Mexico. I understand Chuck Wiggins and John Somers are also, of course, here from New Mexico. Jim Norton is based in Arizona.

Mr. Candelaria, why do you not go ahead with your testimony, and then we will hear from the others.

STATEMENT OF DAVID CANDELARIA, GRANTS, NM

Mr. CANDELARIA. Mr. Chairman, Senator Bingaman, Senator Domenici, I am very happy to be able to—it is an honor to be able to testify before this Committee. I am here in behalf to speak of the national monument proposal and Masau Trail concept. I am very excited about this concept trail business. I think it is tremendous. I have been in this business 40 years. I think I know a little about it. And this is a wonderful thing.

I own the property known as the Ice Caves and Bandera Volcano. Actually I own five volcanoes. Well, let me correct that. I have one active volcano. My wife, Reddy, she is pretty active as a volcano.

I have a heritage in New Mexico that relates back probably to Coronado's time, our first immigrant. Historically our family name has been found inscribed on Inscription rock at El Morro National Monument and the church at "old town" in Albuquerque. My grandfather, Manuel Antonio Candelaria, was probably the first one to discover the Ice Caves. His father-in-law, my great-great grandfather, established a trading post and he homestead adjacent to the Ice Caves back in 1880.

New Mexico State Route 53 has been called The Ancient Way, a traditional route between Acoma and the Zuni Pueblo, and it was the route of Coronado, so we have kept the family tradition by operating a trading post. It has been compared to the Hubble Trading Post in Arizona, now managed by the National Park Service.

My grandfather, Sylvester Mirabol, who purchased and helped build the area, bought this land. After World War II, I was persuaded to visit the Ice Caves, and it was a case of love at first sight. I thought then, I still think that it is a natural wonder and should be preserved.

It has been said that New Mexico is a land of contrasts. For a real experience in contrasts we show the land of ice and fire. We are situated on the continental divide among the Ponderosa pine at the elevation of 8,000 feet. The NASA lunar study says that this is the most moonlike area on Earth, and the only place in the world where volcanic craters and sinuous lava tubes compare with the lunar landscape.

The lava tube that extends from Bandera is the longest in the United States, 17 and a half kilometers.

Not only do I have a great feeling for the Ice Cave, but also the area people, the ranchers, the Navajos, Acomas, Lagunas, and Zunis. I have been proud to be a leader for the betterment of the entire area, which has been depressed to the tune of 70 to 80 percent unemployment, between 7,000 and 8,000 people in this area who live on and off the reservation. Now, they have always been depressed. They never had jobs there. Grants lost them, but they never had them.

I believe the Masau Trail and National Monument will benefit them immensely. We have enjoyed many friends among the Indians. They came here to trade and sell, to pray, to see the "Sheep's Hogan," which the Navajos call Bandera Volcano. They also picked medicinal plants and plants that make the die for the rugs and blankets. We hope they can continue this practice if it is made a national monument. I certainly hope they will hire a lot of these people out here.

When I first came here, there was no electricity, no water, telephone, mail route, roads, only a trail. I started working to change this, and to make the people tourist-oriented. All this took 40 years. Now, gentlemen, I have opened the gates, and I hope to leave it in your capable hands so the world over will enjoy the unique and wonderful place. It will be hard to part with our land and way of living, but then we really will not be losing it. We have been here for 40 years, and it will always be a part of our lives that can never be taken away. My family all agree that the Masau Trail concept for the national monument will benefit this part of New Mexico immensely.

They first introduced a bill or tried to make this a national monument 67 years ago. I will tell you a little background. I do not know what happened, but it did not go through. Two other times, back in 1970—at that time I was against it—and now. Are we going to wait another 67 years before this becomes a reality? I certainly hope it does not.

Senators and members of this Committee, you always have a standing invitation to visit the Ice Caves and Bandera Volcano. I will be glad to have you any time.

Thank you.

Senator BINGAMAN. Thank you very much for that testimony. Why do we not go ahead with the other panel members here, and then maybe we will have a question or two. Chuck Wiggins with the New Mexico BLM Wilderness Coalition, if you would go right ahead, please.

STATEMENT OF CHARLES WIGGINS, NEW MEXICO BLM WILDERNESS COALITION

Mr. WIGGINS. Thank you, Senator.

My name is Chuck Wiggins. I am an epidemiologist at the University of New Mexico's Cancer Research Center. I have also been active in the conservation moment in New Mexico, and I have worked as a volunteer for the Bureau of Land Management helping them to patrol some of the remote areas in the State, and also helping some of those officials take people out into the Malpais on a couple of hikes.

In the interest of time I would like to ask that my written statement be included in the official record.

Senator BINGAMAN. It will be included. Go ahead.

Mr. WIGGINS. I also have three letters from—one from Jim Fish, the State Director of the New Mexico BLM Wilderness Coalition, one from the Albuquerque group of the Sierra Club, and another from the New Mexico Wilderness Study Committee that my peers have asked me to submit for the official record.

Senator BINGAMAN. Those will also be included.

Mr. WIGGINS. Thank you.

I am here to represent the New Mexico BLM Wilderness Coalition which is an ad hoc group of individuals who are dedicated to the preservation of New Mexico's BLM wilderness study areas. I would like to go on record saying that the New Mexico BLM Wilderness Coalition supports the El Malpais National Monument, the Grants National Conservation Area, and the Masau Trail as outlined in Senate Bill 56.

I think you can probably pretty much read through the rest of this thing, so I would like to take just a minute if I might and outline some of the boundary proposals, boundary changes that we would propose in this testimony.

Senator BINGAMAN. Go right ahead.

Mr. WIGGINS. This map, as I understand it, is a compilation of the two maps that are described in your bill in section 101(a) and also in section 301(a). It describes the national conservation area as the larger of the two boundaries here that you see, and within that national monuments, and the proposals that we suggest in our testimony are the following.

We think that the logical boundary for the eastern side of the national monument would be New Mexico 117. It kind of zigzags along and back across the other side of New Mexico 117 as proposed, and we think this would possibly create a nightmare for those people trying to manage the land. We think it would be much easier to use the road there, which is a highly visible improvement in the area to manage. Basically everything on the west side would be national monument. Everything on the east side would be in the national conservation area up to the boundary here.

The second thing that I propose in the testimony is that the BLM construction maintain some sort of a visitor contact center south of La Ventana Arch, and we think that this would be an appropriate presence for the BLM in helping them manage the area. It would increase their visibility and hopefully dissuade the people who were trying to be illegal from operating down there in that wilderness area.

Also to the north here we feel it would be an improvement if the boundaries to the national conservation area could be widened to preserve the scenic corridor that naturally exists here. As I understand, this could be done without a great deal of effort. Some of this land is already in State and Federal ownership and BLM has a number of options available to them to try to acquire some of this other land, including getting scenic easements or swapping some of the land.

There are also a few minor boundary changes I would like to point out down in the southern and the western tip. Mr. Raney's ranch or house is down here in section 28, is currently included in the monument, and I think you could easily draw the monument around his ranch house and not bother him at all.

Also, there is a working mine cap that I have down here on the map. I am not sure if that is Mr. Major's land or if that is Mr. King's working area down there, but that could also be excluded without any major impact.

Senator DOMENICI. What is the section over there? Can you read it?

Mr. WIGGINS. That is section 13 down in this area. I would also like to submit this map if I might as part of my testimony so you can refer to it. Also, up in this area there are rather major facilities that I think should be excluded from the national monument. Again, it does not have as much of an impact.

Senator DOMENICI. That is Major's property?

Mr. WIGGINS. I understand so, yes. One other thing that I would like to point out on this map is the Lava Flow as well as the West Malpais and the Chain of Craters is part of the instant study area that Senator Bingaman referred to earlier saying that that is long overdue to be considered or designated for wilderness. I think that the original directive in the FLPMA said that should be recommended and acted on in 1981, so this is not premature at all in dealing with any of these thngs.

Some of the wilderness study areas over here are in the statewide plan that Mr. Horn suggested was perhaps premature and designated those lands as wilderness. It seems logical to me to just go ahead and deal with the whole land area that is being managed by the BLM and by the Park Service. Why not get the whole thing taken care of now and make a nice clean bill out of this, and let us get back to the rest of the State later?

I would be glad to take any questions.

[The prepared statement of Mr. Wiggins follows:]

STATEMENT OF

CHARLES WIGGINS
NEW MEXICO BLM WILDERNESS COALITION

CONCERNING

SENATE BILL 56

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS

SENATOR DALE BUMPERS, CHAIRMAN

FEBRUARY 19, 1987

INTRODUCTION

Thank you for the opportunity to address the subcommittee this morning. My name is Charles Wiggins. I am employed as an Epidemiologist at the University of New Mexico's Cancer Research Center in Albuquerque. I am a member of the Sierra Club, serve on the Executive Committee for the Club's Albuquerque Group, and edit the Group's Newsletter, the Wildline. I am a participant in the Bureau of Land Management's (BLM) Volunteer Program; I have patrolled BLM lands in remote areas of the state and have assisted BLM officials in taking groups on hikes in El Malpais.

I am here to testify on behalf of the New Mexico BLM Wilderness Coalition. The Coalition is an ad hoc group of individuals dedicated to the permanent protection of BLM wildlands as wilderness. Since its inception in 1982, the Coalition has coordinated citizen efforts to designate appropriate BLM-managed lands as wilderness. The Coalition's activities have included letter-writing campaigns to New Mexico's Congressional delegation, providing oral and written comments to BLM officials, assisting with interim protection of BLM Wilderness Study Areas, and testifying at Congressional hearings.

BACKGROUND

The lava flows, craters, lava tubes, and ice caves of El Malpais comprise one of the most outstanding examples of volcanic landscapes in the continental United States. The area in and around El Malpais includes several significant archeologic sites, a number of rare plants, and important wildlife habitats.

El Malpais was first proposed for Congressional protection by the Grants Communtiy Development Committee in 1966. Since then, the area has been the focus of intense study by both the National Park Service (NPS) and BLM. In 1972, the NPS concluded that El Malpais was clearly of National Monument quality. Following passage of the Federal Land Policy and Management Act in 1976, El Malpais was designated as an Instant Study Area. In 1981, the BLM issued a draft report recommending that 98,824 acres in the heart of the area be designated as Wilderness. The same study also recommended that 39,824 acres of contiguous State, Forest Service, and private land be obtained by trade and included in the Wilderness along with an additional 6,828 acres of BLM land. Although a final draft of the report was not issued and Congress did not take further action to protect these lands, the BLM pushed forward with land acquisition in this area. Much of the land in El Malpais is now in the hands of the federal government. A bill to create a 373,000-acre El Malpais National Monument passed the House in 1986, but similar legislation did not make it through the Senate before the 99th Congress adjourned.

In recent months, the New Mexico Congressional delegation worked out a comprimise bill to establish the El Malpais National Monument, Grants National Conservation Area, and Masau Trail.

RECOMMENDATIONS

The New Mexico BLM Wilderness Coalition supports the concept of El Malpais National Monument, Grants National Conservation Area, and Masau Trail as outlined in Senate Bill 56. We respectfully submit the following recommendations that we feel would "fine-tune" this legislation.

1.) We recommend that the eastern boundary of El Malpais National Monument follow New Mexico state highway 117 (NM 117) (see map, number 1). The boundary, as currently proposed, criss-crosses NM 117 along the eastern edge of the lava; we feel that such a boundary would unnecessarily complicate management of the area. NM 117 provides a logical, visable boundary. Under our proposal, the land east of NM 117, including La Ventana natural arch, would remain under BLM management. The BLM and NPS should work together to develop a low-impact interpretive trail at La Ventana that would be consistent with and complement interpretive sites within El Malpais National Monument. This proposal is supported by BLM and NPS officials in New Mexico.

2.) We recommend that the Chain of Craters Wilderness Study Area be designated as Wilderness. Senate Bill 56 currently proposes that five areas be designated as Wilderness: West Malpais, Rimrock, Little Rimrock, Pinyon, and Sand Canyon (BLM proposes that the latter three areas be combined and managed as the Cebolla Wilderness); the Chain of Craters would be studied for possible designation as Wilderness. The Chain of Craters has been extensively studied and, according to reports from Coalition members, meets the criteria for Wilderness designation. We feel that further study would be repetitious and that resources could be better spent developing the management plan for El Malpais. Again, this proposal is supported by BLM officials in New Mexico.

3.) We ask that the BLM and NPS consult with members of the New Mexico BLM Wilderness Coalition as they construct their management plans for El Malpais National Monument and the Grants National Conservation Area. The New Mexico BLM Wilderness Coalition has compiled a document that outlines our suggestions for the designation and management of Wilderness on BLM lands in New Mexico. The Wilderness Study Areas within the proposed Grants National Conservation Area are addressed in this publication. A draft copy of this document is on file with the Bureau of Land Management in New Mexico and the final draft is at the printers. We hope that our suggestions will be incorporated into the management plan that is adopted for this area.

4.) The BLM should construct and maintain a visitor contact station adjacent to NM 117, south of La Ventana natural arch (see map, number 2). Staff at this facility could provide specific information about the immediate area and information about the BLM, National Conservation Areas, and Wilderness Areas in general. The visitor contact station would increase the BLM's visibility in the area and would facilitate management of Wilderness areas by discouraging would-be pot hunters and illegal woodcutters.

5.) The scenic corridor on the northern end of the lava flow between New Mexico Highway 53 and NM 117 could be enhanced by widening the boundaries of the Grants National Conservation Area (see map, number 3). We understand that some of this area is already in federal and state ownership.

6.) Senate Bill 56 should include language that assures those private citizens with mineral rights within the proposed National Conservation Area and National Monument that they will have the opportunity to exchange their holdings for areas of equal value. It is our understanding that the potential for mineral development in or near El Malpais is extremely low.

7.) Minor boundary adjustments (see map, numbers 4, 5, and 6) would place existing ranches and working line-camps outside the boundaries of El Malpais National Monument, minimizing the impact on local ranchers.

8.) Senate Bill 56 paves the way for much-needed protection for the area around El Malpais and promises an economic boost from the Masau Trail, but these goals will not be realized without adequate funding. New Mexico BLM Wilderness Coalition volunteers and other conservationists in New Mexico are ready to help, but volunteer help is no substitute for money. We urge Congress to provide adequate funding to create and maintain El Malpais National Monument, Grants National Conservation Area, and the Masau Trail.

SUMMARY

The New Mexico BLM Wilderness Coalition supports the concept of El Malpais National Monument, Grants National Conservation Area, and Masau Trail as outlined in Senate Bill 56. We ask that the Subcommittee on Public Lands, National Parks and Forests give careful consideration to the recommendations contained in this testimony.

We thank Senators Domenici and Bingaman for sponsoring Senate Bill 56. Members of New Mexico's congressional delegation are to be congratulated for working together to produce this legislation. Senate bill 56 recognizes that environmental protection and economic growth can go hand in hand. Members of the New Mexico BLM Wilderness Coalition look forward to working with our representatives in the future on issues of environmental concern.

New Mexico
WILDERNESS STUDY COMMITTEE

2724 Veranda Rd. NW
Albuquerque, NM 87107
February 17, 1987

Senator Dale Bumpers, Chair
Senate Subcommittee on Public Lands
S.D. 308
Washington, D.C. 20510

Dear Senator Bumpers:

The New Mexico Wilderness Study Committee would like to have this letter be entered in the Congressional Record for the hearing February 19, 1987 on Senate Bill 56, concerning El Malpais National Monument and the adjoining National Conservation Area.

We strongly support this bill and commend Congressman Bill Richardson and senators Pete Domenici and Jeff Bingaman for working together to bring about this generally quite satisfactory proposal. We do, however, have some suggestions:

- o "El Malpais National Conservation Area" is a more descriptive and consistent name than "Grants National Conservation Area."
- o New Mexico State Road 117 should neatly serve as the boundary on the east to separate the National Monument from the National Conservation Area.
- o Because the "Chain of Craters" is an integral and dramatic part of this package of landscapes, it should at this time be included as wilderness in this bill.
- o There should be no mention in Senate Bill 56 of banning the establishment of any federal reserved water rights in this area. It would only serve to embroil El Malpais in controversy. In our entire nation, there are few areas which have as little evident water, and so little demand for what water there is, so it should not be an issue.

We believe this is basically a good bill, we support it and we thank those above-mentioned members of our New Mexico Congressional Delegation for getting it together.

Sincerely,
Jan A Cummings
Jan A. Cummings, Secretary
New Mexico Wilderness Study Committee

SIERRA CLUB
Albuquerque Group
207 San Pedro Avenue NE
Albuquerque, NM 87110
Phone (505) 265-5506

February 19, 1987

Senator Dale Bumpers, Chairman
Subcommittee on Public Lands,
National Parks and Forests
SD 308
Washington, DC 20510

Dear Senator Bumpers:

The Albuquerque Group of the Sierra Club would like to go on record in support of Senate Bill 56. This legislation provides protection for a unique natural resource and offers economic hope for an area of our state that has experienced a great deal of hardship. Our thanks go to Senator Pete Domenici and Senator Jeff Bingaman for sponsoring this important legislation.

Two members of the Club's Albuquerque Group will be presenting testimony before your subcommittee concerning Senate Bill 56. We hope that you will give careful consideration to their remarks and proposals.

I respectfully request that this letter be entered into the official record of the Subcommittee's hearing on February 19, 1987.

Thank you for your consideration.

Sincerely,

Guy Trujillo

Guy Trujillo, Ph.D., Chairman
Albuquerque Group of the Sierra Club

NEW MEXICO
BLM WILDERNESS COALITION

P.O. Box 712
Placitas, NM 87043

17 February 1987

SUPPORTING ORGANIZATIONS
CABEZON COYOTES
GILA WILDERNESS COMMITTEE
NEW MEXICO WILDERNESS STUDY COMMITTEE
SOUTHERN UTAH WILDERNESS ALLIANCE
NEVADA OUTDOOR RECREATION ASSOCIATION INC.
NATIONAL AUDUBON SOCIETY, NEW MEXICO OFFICE
AMERICAN WILDERNESS ALLIANCE
NATIONAL PARKS AND CONSERVATION ASSOCIATION
FRIENDS OF THE EARTH
SIERRA CLUB
WILDERNESS SOCIETY
PROJECT LIGHTHAWK
UTAH WILDERNESS COALITION

Senator Dale Bumpers, Chair
Senate Subcommittee on Public Lands
S.D. 308
Washington, D.C. 20510

Dear Senator Bumpers:

At the February 19, 1987 hearing on Senate Bill 56, Charles Wiggins will testify on behalf of the New Mexico BLM Wilderness Coalition. His statement represents a consensus of the members of the Coalition.

The Coalition thanks Senator Jeff Bingaman, Senator Pete Domenici, and Congressman Bill Richardson for drafting legistation which reflects the interests of all parties concerned. Our recommendations are intended merely to strengthen further the protection and the public enjoyment of El Malpais and to minimize future conflicts.

The Coalition is especially pleased that no water-rights language has been attached to the bill. This controversial issue has no bearing with respect to El Malpais and could only delay the legislative process if pursued.

We look forward to working with the New Mexico Congressional Delegation, the Park Service, and the Bureau of Land Management to arrive at a final version of Senate Bill 56 and a management plan for El Malpais National Monument and National Conservation Area.

Sincerely,

Jim D. Fish

Jim D. Fish
State Coordinator

INDIVIDUALS DEDICATED TO PRESERVING BLM'S WILD LANDS
WITH THE SUPPORT OF ENVIRONMENTAL ORGANIZATIONS

Senator BINGAMAN. Thank you very much.

Before we go to questions, let me hear from the other two witnesses, if I could. John Somers with the Rio Grande Chapter of the Sierra Club. We appreciate you being here.

STATEMENT OF JOHN W. SOMERS, COORDINATOR, EL MALPAIS TASK FORCE FOR RIO GRANDE CHAPTER, SIERRA CLUB

Mr. SOMERS. Thank you, Mr. Chairman, Senator Domenici. I appreciate being here today.

My name is John Somers. I live it Albuquerque, New Mexico, and I am coordinator of the El Malpais Task Force for the Rio Grande Chapter of the Sierra Club. The Rio Grande Chapter represents the combined efforts of a large number of concerned and responsible New Mexicans to protect some very scenic and enchanting resources of the Nation.

Certainly the El Malpais area contains some of those irreplaceable resources.

The Rio Grande Chapter of the Sierra Club is pleased to support Senate Bill S. 56 and to support some suggestions for additional language intended to help ensure that the bill does what the bill is intended to do. We find this bill outstanding in addressing the need of many diverse elements of the public. We congratulate you on accomplishing that formidable task.

Working with you and others throughout the evolution of this bill has been encouraging. We feel that new lines of communication have been developed, and we hope that those can be put to use for other tasks that face us in New Mexico.

In the bill the national monument we are pleased to see brings the expertise of the National Park Service of protecting and presenting to the public the spectacular resources within the El Malpais area. We look forward to working with the Park Service as it develops its plan and wilderness assessment within the national monument.

The national conservation area is a welcome designation to integrate the BLM's management of the resources surrouning the management. BLM has developed multiple management plans pertaining to various features around the monument and outside the monument but within the proposed conservation area.

We certainly recognize the need for pulling all those management plans together, and we believe that this bill, S. 56, does a good job of doing that by proposing the conservation area. What we have seen is the Albuquerque office of the BLM has done an excellent job in planning but in implementation they have had limited personnel and funds to deal with things such as increased visitor use, growing population density in the area, and various pressures and sometimes abuses that accompany these trends.

I would mention some of the things that we all know of, the pilfering of the cultural resource sites, pot stealing and so forth, some illegal woodcutting for commercial purposes. Our very strong impression is that the BLM can manage that area well but that funding and strong explicit Congressional direction are things that are essential for them to carry that out.

We are pleased to see that bill S. 56 represents a major, much needed step in this direction. Again, I must reiterate that the funding is essential in order to carry out the purposes of this bill. We urge the entire Congress to consider this a necessary and fully justified investment in protecting irreplaceable resources.

I would like to speak to the boundaries. The Sierra Club strongly supports these boundaries which have been presented on the map by Mr. Wiggins of the BLM Wilderness Coalition. Specifically, I would like to mention Highway 117 that follows a natural and readily managed eastern boundary for the proposed national monument. Adopting the highway still allows the inclusion of the Las Ventanas cultural site and the Sandstone Bluffs, which would be very valuable for Park Service purposes.

The highway also presents an easily recognized boundary along much of the designated wilderness. We are aware that much thought has been give to these wilderness boundaries as presumed on this map in order to adequately allow the grazing permitees to continue their activities in the area unimpeded. Thus we see wilderness boundaries with carefully cherry-stemmed roads to ensure their access to and in some cases their continued private ownership of viable windmills and springs for their use.

Again, I would commend the Senators for encouraging the necessary communications and the compromises among the diverse groups necessary to arrive at these proposed boundaries.

We have closely examined the Chain of Craters area. I would like to speak to that area. We believe that this area represents quite a unique and well-qualified potential addition to the National Wilderness Preservation System. We believe that the wisest course of action for Congress would be to go ahead and include wilderness designation for the Chain of Craters in this bill. This would allow BLM to proceed to manage it as wilderness and would ensure immediate full-scale protection for that area.

When Senator Domenici introduced this bill he mentioned a need for Congress to address the future of the privately owned subservice mineral rights and we have heard testimony regarding that earlier. We would suggest that a good mechanism for carrying that out would be to adopt language similar to the exchange language already in the bill effecting the exchange with the State of New Mexico.

Specifically, we propose that the transfer of title to mineral interests within the conservation area be required to be completed within two years of enactment. Our understanding is that the BLM already has this exchange process well under way. Some exchanges have already been completed and the private interests are amenable to the exchange, so we believe this two-year time span is reasonable and reachable.

Finally, I would reiterate that we strongly support this bill. We congratulate you on the efforts that you have made and the success that you have met with so far in bringing us all together. We look forward to working with you on other areas in New Mexico, and we reiterate that we would very much hope to see sufficient funding attached to this bill to carry out its purposes. Thank you.

[The prepared statement of Mr. Somers follows:]

SIERRA
CLUB
330 Pennsylvania Avenue, S.E., Washington, D.C. 20003 (202) 547-1141

TESTIMONY OF JOHN W. SOMERS

COORDINATOR, EL MALPAIS TASK FORCE

FOR RIO GRANDE CHAPTER, SIERRA CLUB

ON SENATE BILL S.56

CREATING EL MALPAIS NATIONAL MONUMENT,

GRANTS NATIONAL CONSERVATION AREA, THE MASAU TRAIL

BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS,

NATIONAL PARKS AND FORESTS

WASHINGTON, DC

FEBRUARY 1987

"When we try to pick out anything by itself, we find it hitched to everything else in the universe." *John Muir*
National Headquarters: 730 Polk Street, San Francisco, California 94109 (415) 776-2211

Senator Bingaman, Senator Domenici, and members of the Subcommittee, my name is Jonn Somers. I live in Albuquerque, New Mexico, and I am Coordinator of the El Malpais Task Force for the Rio Grande Chapter of the Sierra Club. The Rio Grande Chapter represents the combined efforts of a large number of concerned and responsible New Mexicans to conserve and protect some of the most scenic and enchanting natural resources in the nation.

Certainly the El Malpais area contains significant elements of these irreplaceable resources. Accordingly, the El Malpais Task Force was formed as part of the Sierra Club to monitor and participate in legislative, administrative, and on-the-ground activities related to the area.

The Rio Grande Chapter is pleased to support Senate Bill S. 56 and to offer some suggestions for additional language to help ensure that the bill does what it is intended to do.

We find this bill outstanding in addressing the needs of so many diverse elements of the public. Working with you and others throughout the evolution of this bill has been encouraging. We feel that this process has developed new lines of communication which can be put to good use for other tasks that face us in New Mexico.

The National Monument brings the expertiose and prestige of the National Park Service to the task of protecting and presenting to the public the spectacular lava, ice caves, and other outstanding features.

We look forward to working with the Park Service as it develops the management plan and wilderness assessment for the National Monument.

The National Conservation Area is a welcome designation to integrate the BLM's management of resources surrounding the Monument. The BLM in New Mexico has done an excellent job of developing multiple management plans pertaining to various features and resources in the EL Malpais area. However, the Albuquerque Office has had limited personnel and funds to deal with increased visitor use, a growing population in the area, and the associated pressures and sometime abuses that accompany these trends. An example of this is the willful pilfering of cultural resources (pot-stealing, etc.) occurring in areas which need more monitoring and agency presence. We are convinced that funding and strong, explicit Congressional direction are essential for the BLM to effectively implement its plans. This bill, S.56, represents a major, much-needed step in this direction. We must reiterate that sufficient funding is necessary to ensure that this directive is implementable. We urge the Congress to consider this a necessary and fully justified investment in protecting irreplacable resources.

Regarding boundaries, we strongly support those presented on a map of the area in testimony today by Mr. Wiggins of the New Mexico BLM Wilderness Coalition. Specifically, Highway 117 follows a natural and readily-managed eastern boundary for the El Malpais National Monument. It allows the inclusion of the Las Ventanas cultural site and the Sandstone Bluffs Overlook within the Monument. It also presents an easily recognized boundary along much of the designated wilderness to be managed by BLM in the Conservation Area. To our knowledge much thought has been given to the wilderness boundaries as presented on this map in order to adequately allow permitted livestock grazing in the most viable areas. Thus we have wilderness boundaries with carefully cherry-stemmed roads to ensure access to, and continued private ownership of, viable windmills and springs for stock watering. Again I would commend the senators from New Mexico for encouraging the necessary communications and compromises among the diverse interested interested parties, and for addressing those diverse interests so well in this bill.

We have closely examined the Chain of Craters area. This area represents a unique and well-qualified potential addition to the National Wilderness Preservation System. We believe the wisest course of action for Congress would be to include wilderness designation for the Chain of Craters at this time. This would allow the inclusion of wilderness management for the Chain of Craters in the BLM's management plan for the Conservation Area. It would ensure immediate full-scale wilderness protection for an area that is surely qualified.

In his remarks upon introducing this bill, Senator Domenici mentioned the need for Congress to address the future of privately-owned subsurface mineral rights underlying lands to be designated wilderness (Cong. Record, Jan.6,1987, pp.313-4). We propose that the mechanism for this be similar to that used in the bill for effecting exchange of lands with the State of New Mexico. Specifically, we propose that the transfer of title to mineral interests should be required in this bill to be completed within 2 years after enactment.

Our understanding is that the BLM already has this process well under way: some exchange has already been completed; and the private interests involved are amenable to an exchange. We believe the designation of checkpoints at certain times within the two-year span is an excellent method of ensuring timely completion of the exchange. This approach has worked well in exchanges in the San Juan Basin. We encourage the inclusion of such language in this bill to ensure a fair handling of all the interests involved.

Finally I would reiterate that we strongly support this bill, but recognize that it can be implemented only to the extent of adequate funding. We believe it is a wise long-term investment for the Congress to enact on behalf of all citizens of the United States, present and future.

Thank you for the opportunity to offer our comments and support for this excellent piece of legislation.

Senator **Bingaman**. Thank you very much.

The final witness on this panel is Jim Norton with The Wilderness Society. We are glad to have you here, Jim.

STATEMENT OF JAMES W. NORTON, SOUTHWEST REGIONAL DIRECTOR, THE WILDERNESS SOCIETY

Mr. **Norton**. Thank you very much, Mr. Chairman. I am James Norton, southwest regional director of The Wilderness Society. I am based in Phoenix and cover the States of Arizona, New Mexico, and a piece of West Texas.

Senator **Domenici**. Jim, I wonder if you would excuse me a moment. Mr. Chairman, I have a commitment that requires that I leave. I will carefully review Jim's testimony. I wonder if I could just insert these items in the record. Some are very interesting. There are about 35 third graders who wrote to us about this, and I think it is interesting to let us know about their enthusiasm. The Zunis and Zias have supported it. I think their letters ought to go in.

We might be concerned eventually whether we chose the right legend in Masau, and I wanted to submit materials on that legend so that if somebody asked us whether it is really relevant and historic, I think there is a good indication that it is. On the history of the Malpais there is an excellent study, and it is not very long. I think the rest of these can be described on their own. The last one is an interesting one in that some people in our own State describe how the Masau Trail might look, what you might tie with it, and I think if it can be reproduced it is a good starting point.

Thank you very much for your patience with everyone, including me and I will see the Grants people and the other New Mexicans before they leave, and I am going to excuse myself now. Thank you.

Senator **Bingaman**. All right. Thank you very much for your involvement in the hearing here. Go right ahead, Jim.

We will include all these items in the record that have been referred to.

[The material referred to follows:]

February 5, 1987

Dear Senator Domenici,

I am writing this letter to you because I want to let you know why I believe we need El Malpais National Monument in our area. The monument will helps protect the wildlife that lives in the malpais and it will also helps provide jobs for the people in this area.

Sincerly,
Patricia Nelson

February 5, 1987

Dear Senator Domenici,

I am writing this letter to you because I want to tell you why I think we need the El Malpais National Monument in our area. The monument will help all the wildlife that lives in the Malpais and it will also help provide jobs for the people in this area.

Sincerely,
Pat Salazar

February [illegible]

Dear Senator Domenici,

I am writing this letter to you because I want to let you know why I think we need the El Malpais National Monument in our area. The monument will help protect wildlife that lives in the Malpais and it will also help provide jobs for the people in this area.

Sincerely.

Joseph Sabro

February 5, 1987

Dear Senator Domenici,

I am writing this letter to you because I want to let you know why I believe we need the El Malpais National Monument in our area. The monument will help protect the wildlife that live in the malpais and it will also help provide jobs for the people in the area.

Sincerely,
Orlando Vallejos

Feb. 5, 1987

Dear Senator Domenici,

I am writing this letter to you because I want to let you know why I believe we need the El Malpais National Monument in our area. The monment will help protect the wildlife that live in the malpais and it will also help provide jobs for the people in this area.

Sincerely,
Arlene Ramirez

February 7, 1987

Dear Senator Domenici,

I am writing this letter to you because I want to let you know why I believe we need the El Malpais National Monument in our area. The monument will help protect the wildlife that lives in the malpais and it will also help provide jobs for the people in this area.

Sincerely,
Jaime Bustamante

Jeneva Jaramillo
Gen Del San Rafael
N.Mex 87051
Feb 6, 1987

Senator Pete Domenici
New mexico Congrecasional
Delegation Congress of the
United States Washington D.C.
20515

Dear Mr. Domenici

I am very interisted in what you people are doing and I want you to please pass the El Malpais National Monument Bill becouse many people here in Grants New Mexico lost their jobs and need need them back. I realy apreciate if you pass it thank you.

Sincerely Yours,

Jeneva Jaramillo
Jeneva Jaramillo

17008 Ice Cave Rd.
Grants, NM 87020
February 5, 1987

Senator Pete Domenici
New Mexico Congressional Delegation
Congress of the United States
Washington, D.C. 20515

Dear Mr. Domenici,

I am a concerned citizen and sincerely hope that you, Jeff Bingaman, and Bill Richardson can pass the Malpais National Monument Bill of Sale. I would be very helpful to the Grants-Milan area if you would. It would create more jobs, attract tourists, and would make the land available for people to enjoy. Your support for this Bill is greatly appreciated.

Sincerely,

Brendan C. Melend

Box 750 OSO Ridge Rt.
Grants N.M. 87020
Feb 6, 1987

Senator Pete Domenici
New Mexico Congressional Delagation
Congress of the United States
Washington, D.C. 20515

Dear Mr. Domenici;

I hope that the bill is passed to make El Malpais National Monument. It will bring new jobs to the Grants, Milan area. Thank you for your time and effort.

Sincerely yours,
Christina Aragon
Christina Aragon

February 5, 1987

Dear Senators and Congressmen

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reasons are as follows:

1. Tourist would enjoy learning about lava flows.

2. Tourists would spend money in our area.

3. It would provide jobs for some parents.

I hope you can get this bill passed in Washington D.C.

Sincerely,
Leo [illegible]

Dear Senators and Congressmen, February 5, 1987

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reasons are as follows:

1. Tourists would enjoy learning about lava flows.

2. Tourists would spend money in our area.

3. It would provide jobs for some parents.

Sincerely,
Herman
Jr
DuBois

5, 1987
Feb.

Dear Senators and Congressmen,

Our class has discussed why making the El Malpais a National Monument would be important to our community: These reasons are as follows:

1. Tourists would enjoy learning about lava flows.
2. Tourists would spend money In our area.
3. It would provide jobs for some parents.

I hope you can get this bill passed in Washington D.C.

Sincerely
Rebecca Mirabal

Feb 5, 1987

Dear Senatore an Congressmen,

Our class has discussed why making the El Malpais A Natonal Monument would be important too our community. Tese reasons are as follows;

1. Tourists would enjoy learing about lava fitsures.

2. It would provid jobs for some parents.

3. Tourists woulde learn about the plants and animals that live in the El Malpais.

I hope you can get this bill passed in Washington, D.C.

Sinerely,
Felix Aragon

February 5,
1987

Dear Senators and Congressmen,

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reasons are as follows:

1. Tourists would enjoy learning about lava flows.
2. It would provide jobs for some parents.
3. Tourists would spend money in our area.

We hope you can get this bill passed in Washington, D.C.

Sincerely,
Valentino Lovato

February 5, [illegible]

Dear Senators and Congressmen

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reasons are as follows:

Tourists would enjoy learning about [illegible] [illegible].

It would provide more jobs for our people.

Tourists would spend money in our area.

I hope you can get this bill passed in Washington, D.C.

Sincerely,

Dear Senator and Congressman,

Our class has discussed why making the El Malpais a National Monument would be important to our community. The reasons are as follows:

1. Tourists would spend money in the area.
2. It would provide jobs for [illegible] parks.
3. Tourists would learn about the plants and animals that live in the El Malpais.

I hope you can get the bill passed in Washington, D.C.

Sincerely,

Febuary

Dear Senators and Congressmen,

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reason are as follows:

1 Tourists would enjoy learning about lava flows.
② Tourists would spend money in our area.
③ It would provide jobs for some parents.

I hope you can get the bill passed in Washington D. C.

Sincerely
David [illegible] Lone Eagle.

February 5, 198

Dear Senators and Congressmen,

Our class has discussed why making the El Malpais a Natnional Monument would be important to our community. These reasons are as follows: (1). Tourists would enjoy learning about lava flows

(2). Tourists would spend money in our area and the money would provide jobs for some parents.

(3). Tourists would learn about the plants and animals that live in the El Malpais.

I hope you can get this bill passed in Washington D.C.

Sincerly,

Townley, Thomas A.

Feb 5, 1987

Dear Senators and Congression
Our class has discussed why making the El malpais a national monument would be important to our community. These reasons are as follows:
1. Tourists would spend money in our area.
2. Tourists would enjoy learning about lava flows.
3. It would provide jobs for some parents.

I hope you can get this bill passed in Washinton D.C.

Sincerly, by
Chris Gallegos

Dear Senators and Congressmen

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reasons are as follows:

☑ 1. Tourists would enjoy learning about lava flows.
☑ 2. Tourists would learn about the plants and Animals
that live in the El Malpais.
☑ 3. It would provide jobs for some parents.

I hope you can get this bill passed in Washington, D.C

Sincerely
William Campbell

February 5, 1987

Dear Senators and Congressmen,

Our class has discussed why making The El Malpais a National monument would be important to our community. These reasons are as follows:
1. Tourist would enjoy learning about lava flows
2. It would provide jobs for Some parent
3. Tourists would larn about The plant and animals That line in El malpais.

I hope you can get This bis bill passed in washing D.C.

Sincerly
Jerdd Williams

Febuary 5, 1987

Dear Senators and Congressmen,

Our class has discuced why making the El Malpais a Natinal Monument would be important to our community. These reasons are as follows.

1. Tourists would enjoy lava flows.
2. Tourists would spend money in our area.
3. It would provide jobs for some parents

I hope you can get this bill passed in Washington, O.C.

Sincerly,
Tina Elliott

February 5, 1987

Dear Senator and Congressman

Our class has discussed why making the El malpais a National Monument would be important to our community. These reasons are as follows:

1. Tourists would enjoy seeing and [illegible] lava flows.
2. It would provide jobs for some parent
3 Tourists would learn about the plants and animal that live in the El Malpais.

I hope you can get this bill passed in Washington D.C.

Sincerely,

Miguel [illegible]

February 5, 1987

Dear Senator and Congressman,

Our class has discussed why making the El Malpais a National Monument would be important to our community. These reason are as follow:

1. Tourists would learn about the plants and animals that live in the El Malpais.
. It would provide jobs for some parents.
3. Tourist would spend money in our area.

I hope you can get this bill passed in Washington, D.C.

Sincerely,

Joinette Garcia

February 5, 1987

Dear Senators and Congressmen,

Our class has discussed why making the El malpais a National Monument would be important to our community. These reasons are as follows.

1 Tourists would enjoy learning about lava flows.

2 It would provide jobs for some people.

3 Tourists would learn about the plants and animals that live in the El Malpais.

I hop you can bill passed in Washington D. C.

Sincerely,

Chris Gomez

F [illegible]

[illegible]

[illegible]

[illegible] would [illegible] saving [illegible]

[illegible] Townsto [illegible] money [illegible]
So the world [illegible] provide [illegible]

[illegible]
W[illegible], D.C.

[illegible]

LIST OF GRAZING ALLOTTEES IN THE AREA SUPPLIED BY BLM

10/7/86

El Malpais BLM Grazing Allotments 1/

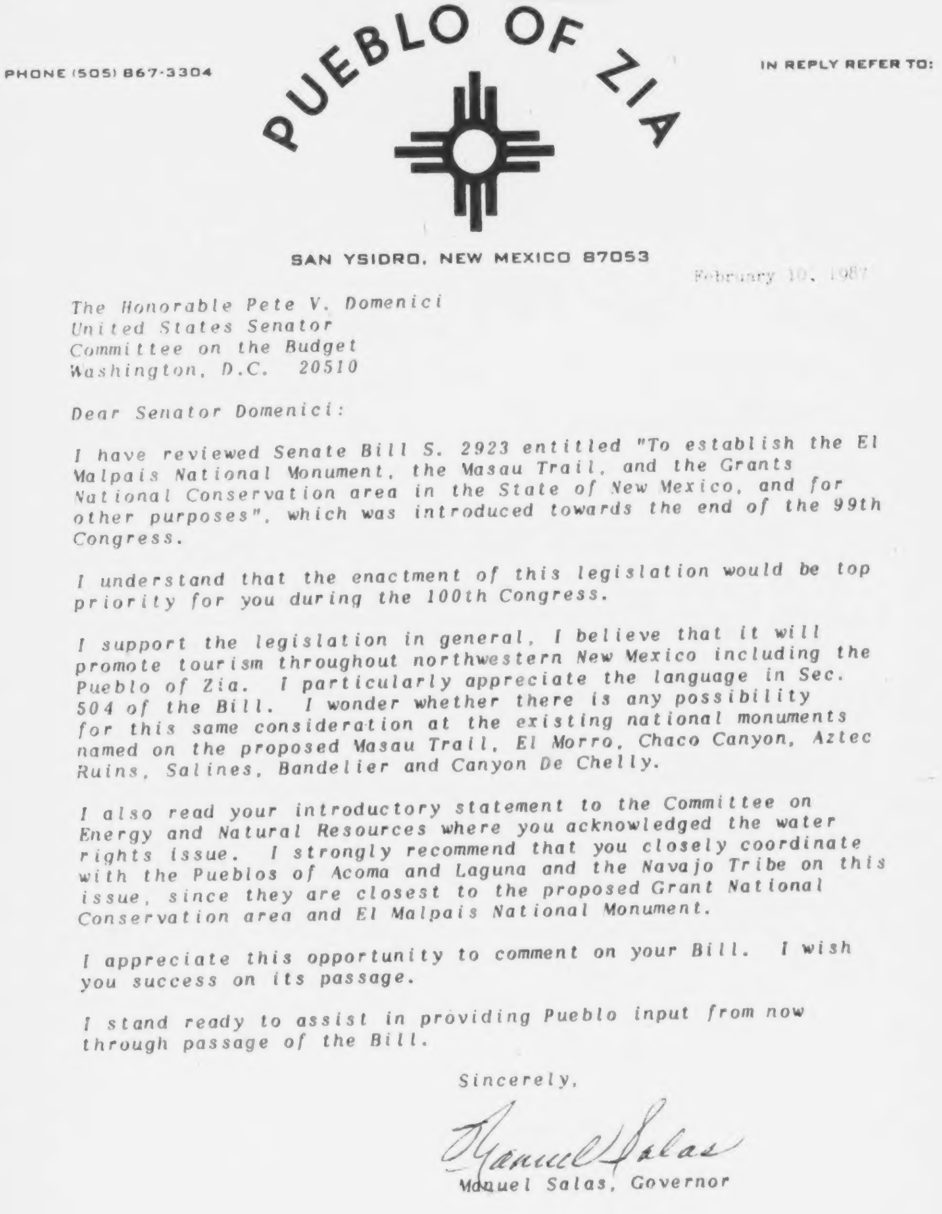
								Lava Flow		
								Usable		
Allotment Name	Allottee	Allotment No.	No. of Pastures	% Federal Range	Total Acres	2/ Total AUMs	Total Acres in lava	Acres in lava	2/ AUMs in lava	Unsuitable Acres
Cerro Chato	Darr Angell	200	1	82%	17,080	2988	0	0	0	0
Cerro Brillante	J. B. Moleres	207	9	84%	22,880	4296	0	0	0	0
York Ranch	King Brothers	203	26	57%	221,992	25,976	39,897	3/ 11,183	3/ 1650.7	34,291
Raney	Sleet Raney	204	1	79%	10,237	516	8,342	949	105	7,393
Los Cerros	M.S. Majors	210	6	65%	38,611	3,864	11,183	6,720	504	4,463
Arrosa	Pierre Arrosa	201	3	38%	22,998	3,636	14,932	12,152	2,127	2,780
Porter	Mike Porter	206	3	81%	3,777	354	2,797	2,397	200	400
Bright	Lewis Bright	202	1	50%	640	96	0	0	0	0
Berryhill	Acoma Indian	205	1	72%	18,102	3,276	711	711	65	0
Candaleria	Jimmy Candaleria	211	3	29%	12,944	1,282	3,159	439	40	2,270
Mirabal	Ascension Mirabal	208	6	42%	28,253	2,172	15,347	1,267	120	14,080
Mertz Ranch	M.S. Majors	209	6	93%	37,377	5,676	0	0	0	0
TOTALS					434,891	54,132	96,368	35,818	4,811.7	66,127

1/ Information provided is for the USDI-BLM grazing allotments in the Malpais area. Some of the grazing allotments extented beyond the boundaries of the H.R. 3684 or the BLM's El Malpais Special Management Area.

2/ The AUM figures are determined by range surveys done over the past twenty years, but are still only estimates of suitability and carrying capacity.

3/ These figures include Hole in the Wall Pasture which is a large pasture of 5,577 acres in the center of the lava flow and carries 1,020 AUMs.

LETTERS OF SUPPORT FROM THE ZIA AND ZUNI PUEBLOS



PHONE (505) 867-3304

PUEBLO OF ZIA

IN REPLY REFER TO:

SAN YSIDRO, NEW MEXICO 87053

February 10, 1987

The Honorable Pete V. Domenici
United States Senator
Committee on the Budget
Washington, D.C. 20510

Dear Senator Domenici:

I have reviewed Senate Bill S. 2923 entitled "To establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation area in the State of New Mexico, and for other purposes", which was introduced towards the end of the 99th Congress.

I understand that the enactment of this legislation would be top priority for you during the 100th Congress.

I support the legislation in general, I believe that it will promote tourism throughout northwestern New Mexico including the Pueblo of Zia. I particularly appreciate the language in Sec. 504 of the Bill. I wonder whether there is any possibility for this same consideration at the existing national monuments named on the proposed Masau Trail, El Morro, Chaco Canyon, Aztec Ruins, Salines, Bandelier and Canyon De Chelly.

I also read your introductory statement to the Committee on Energy and Natural Resources where you acknowledged the water rights issue. I strongly recommend that you closely coordinate with the Pueblos of Acoma and Laguna and the Navajo Tribe on this issue, since they are closest to the proposed Grant National Conservation area and El Malpais National Monument.

I appreciate this opportunity to comment on your Bill. I wish you success on its passage.

I stand ready to assist in providing Pueblo input from now through passage of the Bill.

Sincerely,

Manuel Salas

Manuel Salas, Governor

PUEBLO OF ZUNI
P. O. BOX 339
ZUNI, NEW MEXICO 87327

Robert E. Lewis
Governor

Pesancio Lasiloo
Lt Governor

Barton Martza
Hd Councilman

Edward Beyuka
Councilman

Virgil Wyaco, Sr.
Councilman

Angus Mahooty
Councilman

Rita E. Lorenzo
Councilwoman

William Isikewa, Sr.
Councilman

In reply refer to:

January 9, 1987

The Honorable Pete V. Domenici
United States Senate
Washington, D.C. 20510

Dear Senator Domenici:

We have read with much interest your proposed legislation - A Bill, to Establish the El Malpais National Monument, the Masau Trail, and the Grants National Conservation area in the State of New Mexico, and for other purposes which you sent with your letter of December 1, 1986.

We agree that it is an exciting effort, and positively feel that it will both promote tourism throughout northwestern New Mexico as well as provide the much needed protection to the El Mapais area, that you bring out.

Since Zuni is practically at the start of the Old Spanish Trail in New Mexico and we have much history to share with others, you have our support.

Also, we are now laying out plans to establish a National Indian Artists Hall of Fame here in Zuni, which will tie in very well with your planned legislation, and can very well assist Grants and Gallup on the tourism side. We will keep you informed on this as we go along.

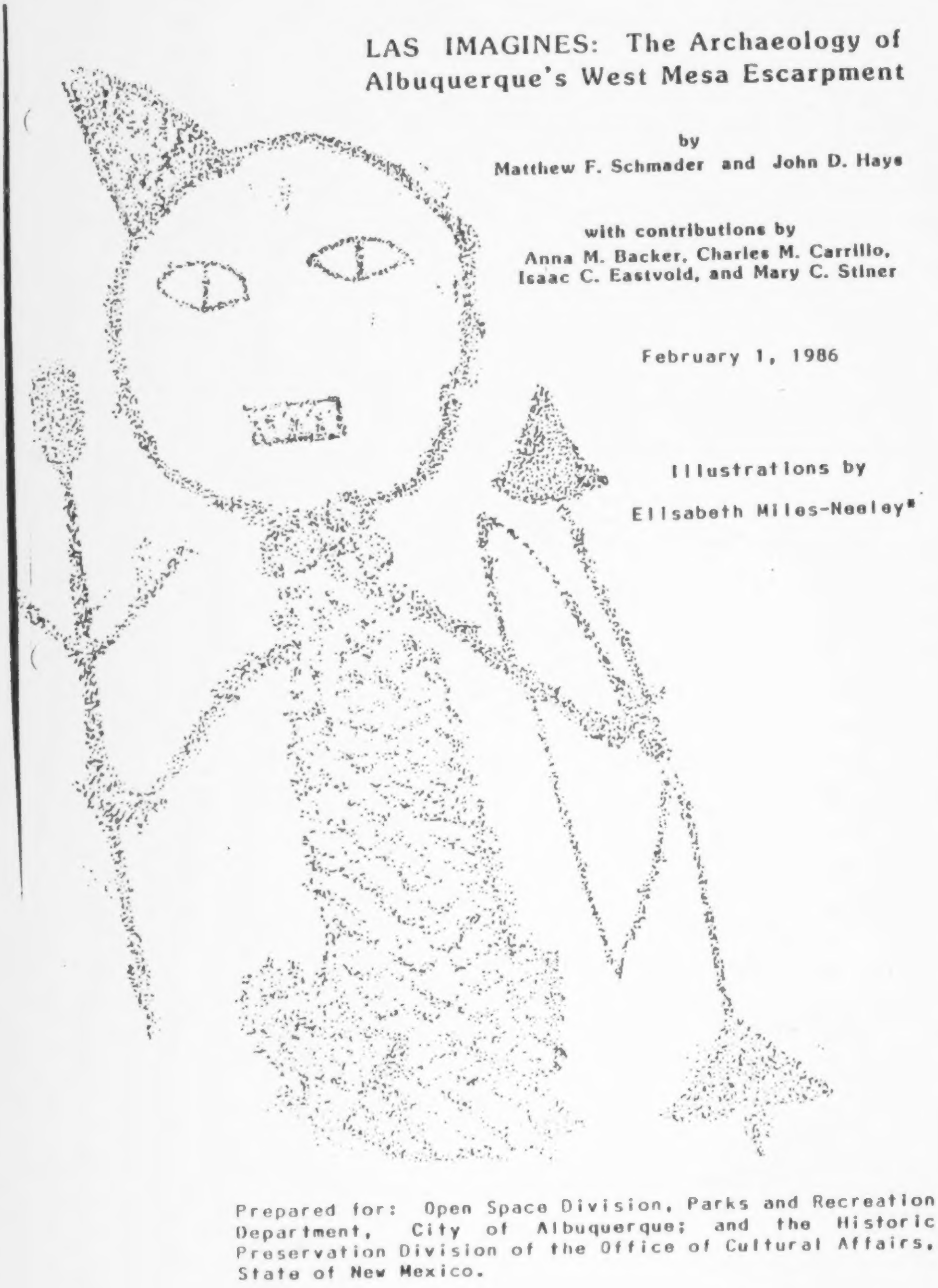
We extend to you our very best wishes for the New Year, and please extend the same to our other New Mexico delegates.

Sincerely,

Robert E Lewis

ROBERT E. LEWIS
Governor, Pueblo of Zuni

MATERIALS ON THE MASAU LEGEND: A DESCRIPTION OF THE MASAU FOOTPRINTS IN THE ALBUQUERQUE PETROGLYPHS AND AN EXCERPT FROM A BOOK ON HOPI HISTORY



LAS IMAGINES: The Archaeology of Albuquerque's West Mesa Escarpment

by
Matthew F. Schmader and John D. Hays

with contributions by
Anna M. Backer, Charles M. Carrillo,
Isaac C. Eastvold, and Mary C. Stiner

February 1, 1986

Illustrations by
Elisabeth Miles-Neeley*

Prepared for: Open Space Division, Parks and Recreation Department, City of Albuquerque; and the Historic Preservation Division of the Office of Cultural Affairs, State of New Mexico.

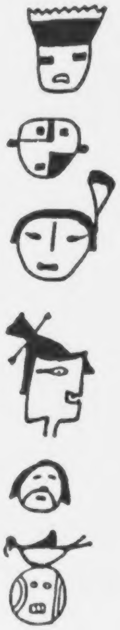
CHAPTER 10

ETHNOGRAPHIC BACKGROUND FOR THE ROCK ART OF THE WEST MESA ESCARPMENT

by

Isaac C. Eastvold

The prehistoric rock art of the West Mesa escarpment constitutes a major cultural resource which must be approached with patience, respect, and considerable humility if any significant ethnological insights are to be gained. The physical size alone of this vast cultural feature, constituting fully 17 miles of glyph-bearing basalt incised with over 10,500 petroglyphs, is appreciable. When added to the marked differences in time-sensitive patination of many glyphs, it presents the researcher with a display of prehistoric art formidable in both space and time dimensions.

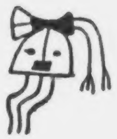


When a third dimension, that of the rich complexity of Anasazi cultural expression, is added to the research equation, the inquirer must stand humbled and admittedly limited. Although one could agree with Dockstater (1985:31) that "Parallel features in the religious life of prehistoric and contemporary Pueblo peoples have been fully demonstrated by archeological investigation," once such parallel features have been identified with various rock art symbols, the task of ethnological understanding has really only just begun. Since most of these symbolic parallels involve the inner workings of Pueblo religion, we are very quickly confronted with the currently incomplete and fragmentary understanding of this subject, despite a substantial bibliography of ethnological works.

Methodology

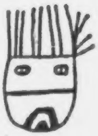
Because of these limitations, and the necessarily limited scope of this ethnological element itself, only a few categories of petroglyph design elements will be used in working backwards from contemporary Pueblo toward ancient Anasazi symbolism. Ethnological material has had to be kept to the minimum sufficient for preliminary identification, and limited largely to western Pueblo peoples, the Zuni and the Hopi.

Wherever possible, these comparisons have been on direct ethnographic explanations of Pueblo rock art. Unfortunately, at this time the literature contains no such direct explanations from Native American persons for the West Mesa petroglyph sites. However, the published literature does contain Zuni and Hopi explanations for rock art sites with pecked or painted symbols that are very similar or identical to those on the escarpment. This study will concentrate on those ethnographic materials to demonstrate two things: first, the tremendous research potential of the escarpment's rock art; and second, the underlying religious principle which unifies the diverse cultural functions Pueblo people assign to their rock art.

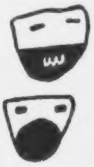


Zuni Materials

In her illuminating study of Mimbres pottery paintings, Pat Carr (1979) relies heavily on contemporary Zuni myths to suggest meanings for the ancient illustrations, reasoning that



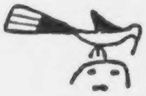
> the Zuni heritage was one that encompassed the entire Southwest, and the Zuni people were the most characteristic and representative of all the Pueblo peoples while they remained the most archaic and the least affected by the white man (Carr 1979:7).



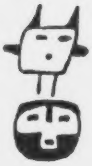
Further enhancing the ethnographic use of Zuni religious traditions, Tom Bahti stresses that

> The Zunis have probably the most complex of all native religions in the Southwest, and every aspect of Zuni life is completely integrated with their religion (Bahti 1974:26).

Carr's and Bahti's remarks could apply to the other western Pueblo group used in this study, the Hopi, as well.

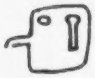


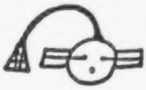
Because of her own interest in rock art, Matilda Cox Stevenson's comprehensive work The Zuni Indians: Their Mythology, Esoteric Fraternities, and Ceremonies, contains a number of important explanations which she actively solicited from the Zunis on their rock art. Beginning with her first six-month visit in 1879 as part of the Bureau of American Ethnology's expedition to Zuni, which included her husband, James Stevenson, and Frank Cushing, her study was continued intermittently until its publication in 1904. Together with the studies of Cushing, who lived with the Zunis for 4 and 1/2 years and became a member of the Bow Priesthood, her work is the uncontested foundation for Zuni ethnology.

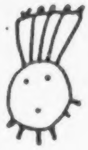


Stevenson was escorted by Zuni leaders to four rock art sites on or near their reservation, and given explanations. She was shown sites with petroglyphs (incisings), pictographs (paintings), cupules (small abraded pits), and vulva-form rock carvings.

A short summary of explanations shows the broad range of cultural functions with which rock art is associated in Zuni tradition. One petroglyph panel was explained in great detail as a symbolic diagram of the migrations in mythical times of the Hlewekwe or Sword Swallower's Fraternity (Stevenson 1904:444-445; Pl. CVII). Another columnar rock covered with hundreds of cupules and vulva-form carvings, known as Mother Rock because of its fertility power, was actually a young man and woman converted to stone when they were sacrificed to stop a great flood in mythical times (1904:61; Pl. XII). Footprint and bird-man petroglyphs were images of the mythical time after emergence from the underworlds when the people's originally webbed feet were cut to make toes ((1904:41-43; Pl. VI and VII). Some petroglyphs were clan symbols (1904:40). Yet others were Koyemshi (Mudhead Clowns), Koko (kachinas or anthropic gods), Koloowisi (horned-plumed Water Serpent), the god Ololowishkia, Sayatasha (Long-Horn Rain Priest), cougars, game animals, and human handprint pictographs done in the negative.[1]



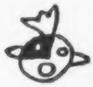


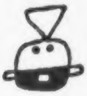


Underlying this bewildering array of explanations is a unifying religious principle: the rock art consistently relates to the sacred history, or mythical time, of the Zuni. Clan totems, religious fraternities, altars, and ceremonies were instituted during this time of emergence and migration. Gods, Mudhead Clowns, Koko, and Koloowise were created. Tremendous events and transformations took place. Prey and predator gods, or beast gods, were created, and their spritual relationship established.

Mircea Eliade uses the example of a Navajo sandpainting healing ceremony to explain this unifying religious principle of Native American art:

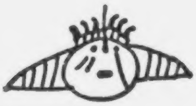
> It is significant that among the Navajos the principal occasion for the narration of the cosmogonic myth is in connection with cures . . . The ceremony also comprises the execution of complex designs on sand (sand paintings) which symbolize the different states of the Creation and the mythical history of the gods, the ancestors, and humanity. These designs (which bear a strange resemblance to the Indo-Tibetan mandalas) reactualize, one by one, the



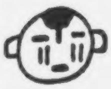


1/ Certain other petroglyphs marked specific stone seats for personators in the great Shalako ceremony (1904: pp. 232-3; Pl. XLVII). A water-worn pothole with sun symbol petroglyphs marked the spot where the Gods of War, Uyuyewi and Masailema, were created (1904: p. 42; Pl. VII). A lightning-like design panel of petroglyphs was identified as like the altar of the

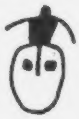
> events which took place *in illo tempore*. Listening to the recital of the cosmogonic myth (followed by the recitation of the myths of origin) and contemplating the sand paintings, the patient is projected out of profane time into the plentitude of primordial time: he has gone back to the origin of the world and is thus a witness of the cosmogony (Eliade 1954:83-84).



The Navajo medicine man plays three roles in this ceremony: a doctor who heals, a priest who has direct experience of the supernaturals, and an artist adept in drama, song, poetry, and the pictorial arts. His latter role as an artist is really the key to his religious and healing functions, since it is the imagery of art which represents, and thereby restores, the healing wholeness of the beginning time, or mythical time.

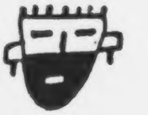


Keeping this unifying principle in mind, the diversity of functions Pueblo peoples assign to their rock art can be better understood through the underlying motive which consistently relates their symbols to events in the origin traditions.

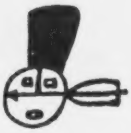


Kachina and Koyemshi Masks

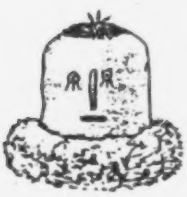
Researchers like Jesse Walter Fewkes (1892a), Polly and Curtis Schaafsma (1974), and Frederick J. Dockstater (1985) have all documented the strong resemblances between mask-like rock art in and around the Anasazi area and contemporary Pueblo kachinas (called Koko by the Zuni). Consistently associated with the sacred history of the Pueblo peoples at the time of emergence and migration, the kachinas, according to Hopi belief, were beneficient spirit-beings who emerged with the Hopis from the Underworlds (Dockstater 1985:10-11); or, according to Zuni origin traditions, came into being along with the Koyemshi (Mudhead Clowns) during the migrations in a series of mythical events precipitated by incest between brother and sister (Stevenson 1904:32-34).

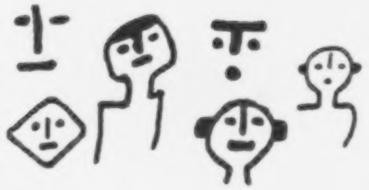


When Stevenson was shown the large variety of rock art at Pikialakiana (Water-cress Spring), she noted "a number of masks of anthropic gods (Koko) . . . . . . and a central figure on the rock which represents a Koyemshi mask" (1904:232-233). The entire description is given here for later reference to its other parts:

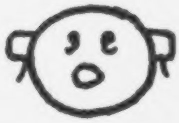


> The spring visited in February is some 6 or 7 miles south of Zuni, in a most retired spot.





Hehea of the South (from Stevenson 1904:Plate LII)

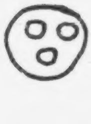


After Fewkes (1897)
Hehea Mask used as
a kachina clan symbol

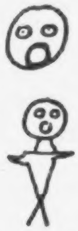
Interestingly, the Hopi Sikya Heheya pictured by Wright (1977:47) has the same tadpole-like eyes as the Zuni Shiwanni of the Kianakwe pictured by Stevenson; and Fewkes (1897:7) shows a Heheya mask used as a kachina clan symbol which closely resembles the West Mesa rock art Shiwanni type. This contradictory duplication from two Pueblo groups shows how essential is direct ethnographic identification.

Masau

Another Hopi clan symbol showing marked similarity to these three-hole mask types is use of the Masau mask as the Firewood clan symbol. The clan symbol shown by Nequatewa ((1936:26, 77) and Fewkes (1897:7) is the same as a number of escarpment petroglyphs:

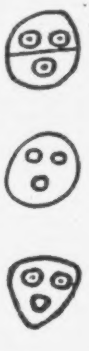


(after Nequa-
tewa 1936)

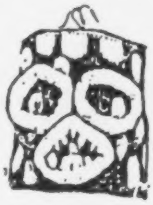


(after Fewkes
1897)

Masau Mask Firewood Clan Symbol



Escarpment
Petroglyphs

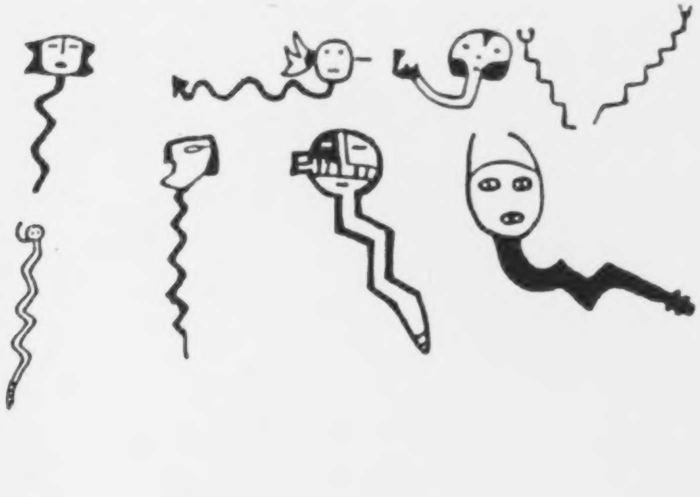


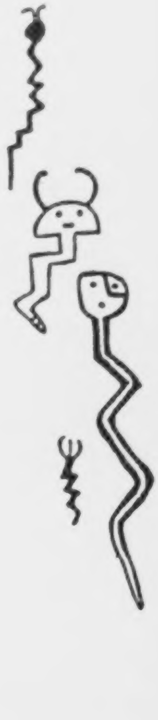
From Mails'
(1983): Masau
Mask

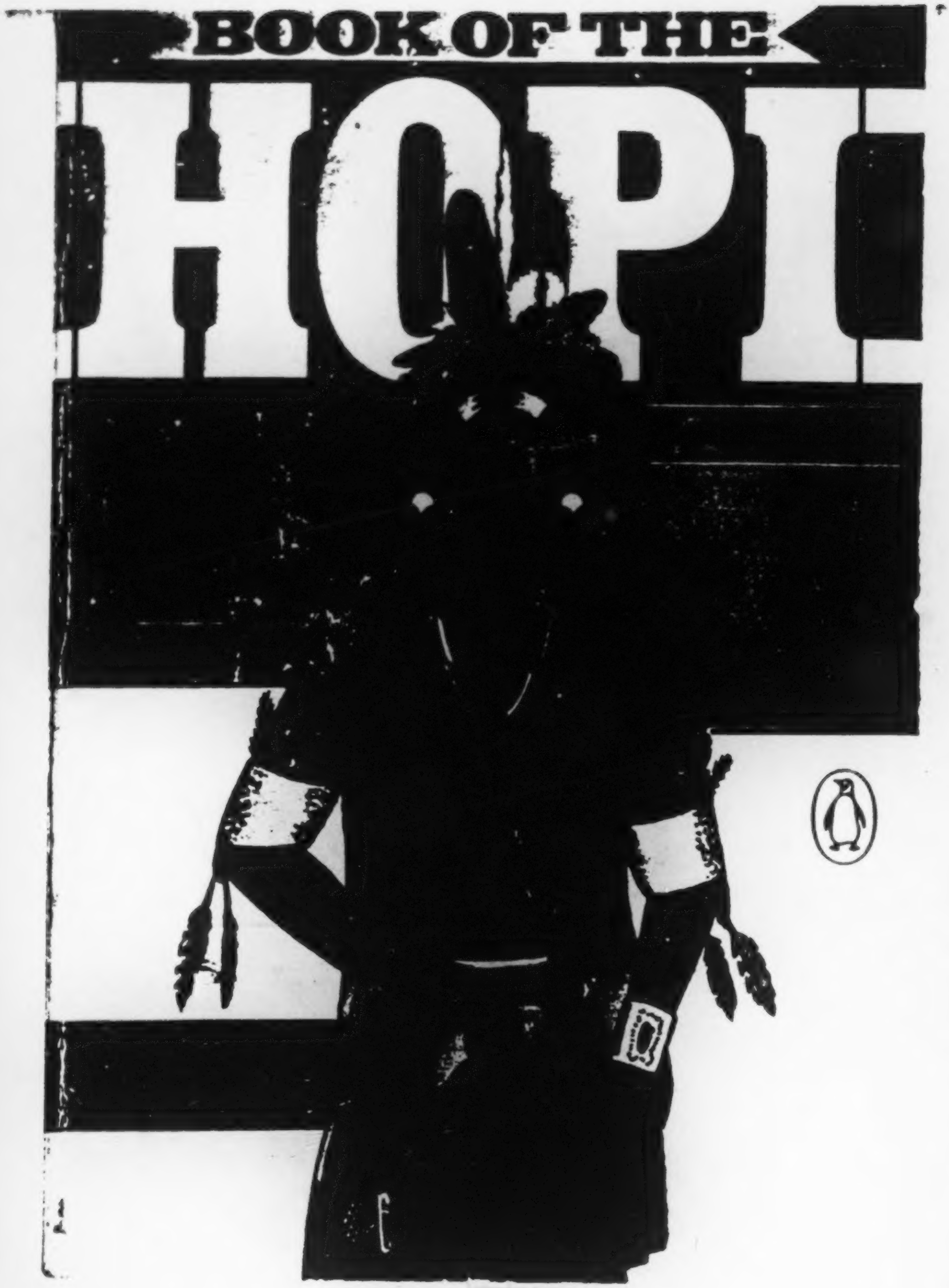
Masau is present in every Pueblo version of the Emergence Myth, welcoming the people to the surface of the Fourth World as they come up through the sipapu, or place of emergence. A terrifying god of fire and death, Masau is called "bloody headed," and "Skeleton Man." Despite being the god of this Fourth World who did allow the people to populate his land, Masau is described by the myths as a fearful, blackened giant, with feet about the length of an ordinary man's forearm (capable of making the huge footprints that the wandering people often followed) (Carr 1979:18). Are Masau's legendary footprints duplicated in the huge footprint petroglyphs we find on the West Mesa escarpment, and throughout the Anasazi area?

Koloowisi, Awanyu, and Baholikonga (Plumed-Horned Water Serpents)

Many spectacular serpent beings are found in the West Mesa escarpment rock art, and some are horned or plumed. A minor god among all the Pueblo tribes, the Water Serpent is the guardian of sacred springs, and has dominion over all the waters of the earth. In this role, it nourishes the germination of seeds, furnishing sap to plants and blood to animals (Tyler 1964:225). Stevenson, in the passage quoted previously, gives us little detail about the huge Koloowisi pictograph at Water Cress Spring, except that its "teeth are large and of black paint" (1904:233).



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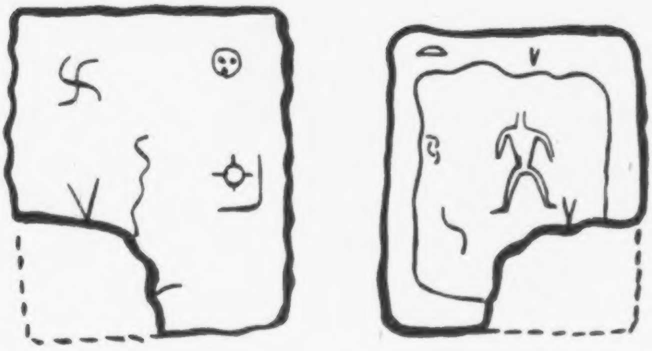

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Figure 2. Fire Clan tablet

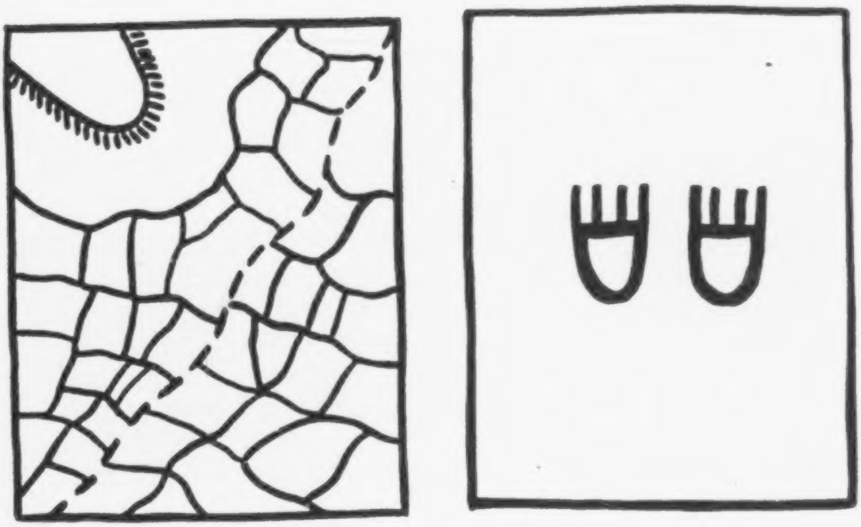

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Figure 3. First Bear Clan tablet

The Four Migrations

Upon their Emergence to this new Fourth World, the people were told that they could not simply wander over it until they found a good place to settle down. Másaw, its guardian spirit, outlined the manner in which they were to make their migrations, how they were to recognize the place they were to settle permanently, and the way they were to live when they got there. All this was symbolically written on the four sacred tablets given them.

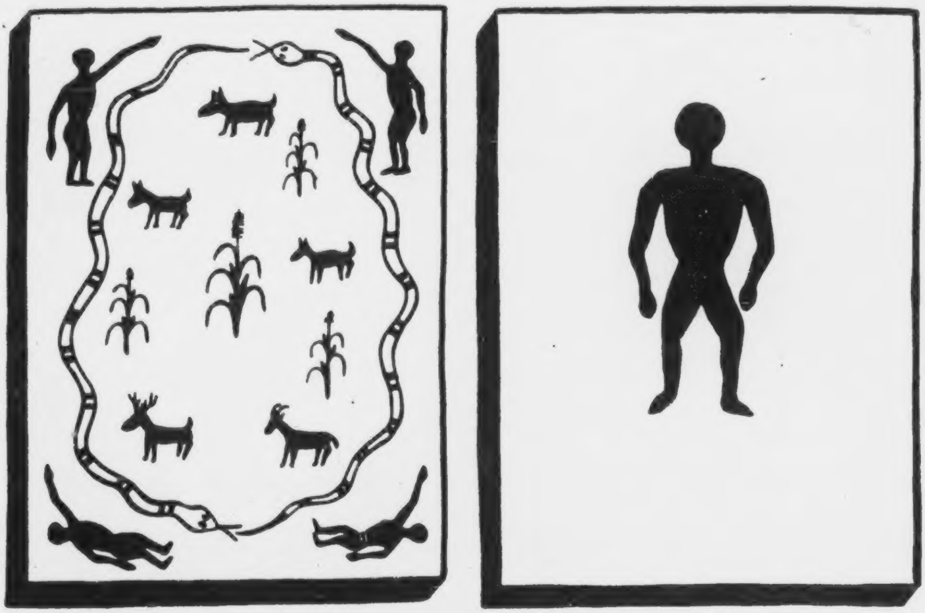
THE SACRED TABLETS

One of the tablets Másaw gave to the Fire Clan. As shown in Figure 2, it was very small, about four inches square, made of dark-colored stone, and with a piece broken off from one corner. On one side were marked several symbols, and on the other the figure of a man without a head. Másaw was the deity of the Fire Clan; and he gave them this tablet just before he turned his face from them, becoming invisible, so that they would have a record of his words.

This is what he said, as marked on the tablet: After the Fire Clan had migrated to their permanent home, the time would come when they would be overcome by a strange people. They would be forced to develop their land and lives according to the dictates of a new ruler, or else they would be treated as criminals and punished. But they were not to resist. They were to wait for the person who would deliver them.

This person was their lost white brother, Pahána, who would return to them with the missing corner piece of the tablet, deliver them from their persecutors, and work out with them a new and universal brotherhood of man. But, warned Másaw, if their leader accepted any other religion, he must assent to having his head cut off. This would dispel the evil and save his people.

The deity of the Bear Clan, Söqömhonaw, then gave three stone tablets to the Bear Clan, which was to be the leading clan on this Fourth World. The first of these (Figure 3) was small, with a strange pattern scratched on one side. This, he said, was the land pattern around the permanent village where they would settle, showing the land holdings to be apportioned to all clans supporting the religious ceremonies. On the other side of the tablet were marked two bear tracks, indicating that all the land beyond these religious land holdings was to be held in the custody of the Bear Clan, which was to reserve it for the animal kingdom upon which the people depended for food.



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Figures 4 and 5. Second Bear Clan tablet

The front of the larger, second Bear Clan tablet (Figure 4), was marked with a cornstalk in the center, around which were grouped several animals, all surrounded by two snakes; and in each corner was the figure of a man with one arm outstretched. The two snakes symbolized the two rivers that would mark the boundaries of the people's land.* The outstretched arms of the four men signified that they were religious leaders holding and claiming the land for their people; no one should cross the boundary rivers without permission, or destruction would come upon them. The back of the tablet (Figure 5) showed a man who represented the leader or village chief, who was always to be of the Bear Clan.*

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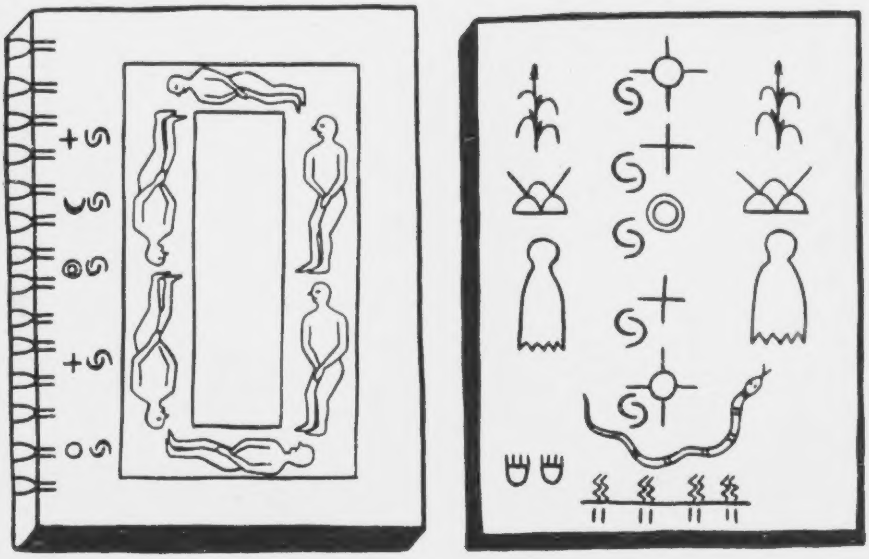
* The Colorado and the Rio Grande Rivers.

There was still a third tablet which Söqömhonaw gave to the Bear Clan. On the front (Figure 6) six men, arms folded across belly and crotch, were enclosed within the borders of two rectangles. The double-lined borders of the rectangles again symbolized the rivers enclosing the land;. and the six men represented the leaders of the most important clans. Along the left side, whose edge was notched with tiny cuts, were marked sun, moon, stars, and the *nakwách* symbol of brotherhood. The back (Figure 7) was covered with a maze of symbols: corn, cloud, sun, moon, star, water, snake, *nakwách*, spirit of the Creator, and bear tracks.**



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Figures 6 and 7. Third Bear Clan tablet

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* There is currently some confusion about this figure. Some informants state that the man is headless, prophesying, like the Fire Clan tablet, that a time would come when the leader would sacrifice himself by having his head cut off in order to save his people.

** This third Bear Clan tablet was shown to the writer in December 1960 by John Lansa's wife, Myna, of the Parrot Clan, in Oraibi, who now has it in custody. The tablet was approximately 10 inches long, 8 inches wide, and 1½ inches thick. The stone resembled a dull gray marble with intrusive blotches of rose. It was very heavy, weighing about 8 pounds. The markings on it were as described. There was no means of estimating how old it or the markings were.

All the tablets are said to be still in the possession of the Hopis, although some of them have disappeared and are not to be seen. They have figured importantly throughout the history of Hopi dealings with other tribes and the United States Government, and are of great significance at the present time.

The use made of them, the manner of the disappearance of some of them, and their probable location at present, are related in Part Four, Chapter 6.

THE MAGIC WATER JAR

To each clan Másaw then gave a small water jar. In the years to come, he said, they would be slowly migrating over the earth, and many times there would be no water where they settled. They were then to plant this jar in the ground and, thereafter, for as long as they remained there, water would keep flowing out of this *pá'uipi* [Water Planted place].

"One certain person," went on Másaw, "must be ordained to carry this water jar for the whole clan. He must be a holy person whose life is perfect in every way. Four days before you are ready to move on, this water carrier must go without salt and he must pray. Then he will carry the jar until you arrive at the next stop on your migrations. For four days more he will pray and fast and go without sleep before planting the jar again. Then again the water will start flowing, and he may take up his normal life."

Másaw now instructed them what to do if the jar should be broken or should need to be replaced.

"You must go through a purification ceremony for four days. Then a woman who belongs to the same family as the water carrier must gather clay, shape and fire a new jar. The water carrier or a young unmarried man of perfect character will be given the jar and an eagle feather to carry in his left hand and the wing tip of an eagle to carry in his right hand. He must go to the largest body of water, preferably the ocean. He will go by that power which you still possess.

"At the ocean shore he will kneel, place his prayer feather at the water's edge, and draw a line with cornmeal in the direction of his people. When the wave recedes and little bubbles appear in the sand where the *paváwkyaiva* (water dogs) are, he must dig them out with the wing tip of his eagle and put them in his jar. After this he will put in the seaweed, the *páwisavi* (water mucous or slime), a tiny sea shell, some sand from the ocean floor, and the *páchayanpi* (water sifter) which skates on the surface. Finally he will put in the jar some water from the ocean itself.

"Thus when the jar is planted on a high mountain or in a sandy desert or near a village where there is no water, the materials in the jar will draw water from the distant ocean to supply you without end. The time will come when the villages you establish during your migrations will fall into ruins. Other people will wonder why they were built in such inhospitable regions where there is no water for miles around. They will not know about this magic water jar, because they will not know of the power and prayer behind it."

THE FOUR MIGRATIONS

And now before Másaw turned his face from them and became invisible, he explained that every clan must make four directional migrations before they all arrived at their common, permanent home. They must go to the ends of the land—west, south, east, and north—to the farthest *páso* (where the land meets the sea) in each direction. Only when the clans had completed these four movements, rounds, or steps of their migration could they come together again, forming the pattern of the Creator's universal plan.

That is the way it was. Some clans started to the south, others to the north, retraced their routes to turn east and west, and then back again. All their routes formed a great cross whose center, Túwanasavi [Center of the Universe], lay in what is now the Hopi country in the southwestern part of the United States, and whose arms reached to the four directional *pásos*. As they turned at each of these extremities they formed of this great cross a swastika, either clockwise or counter-clockwise, corresponding to the movement of the earth or of the sun. And then when their migrations slowed as they reached their permanent home, they formed spirals and circles, ever growing smaller. All these patterns formed by their four migrations are the basic motifs of the symbols still found today in their pottery and basketware, on their *kachina* rattles and altar boards.

Often one clan would come upon the ruins of a village built by a preceding clan and find on the mound broken pieces of pottery circling to the right or to the left, indicating which way the clan had gone. Throughout the continent these countless ruins and mounds covered with broken pottery are still being discovered. They constitute what the people call now their title to the land. Everywhere, too, the clans carved on rocks their signatures, pictographs and petroglyphs which identified them, revealed what round of their migration they were on, and related the history of the village.

Still the migrations continued. Some clans forgot in time the commands of Másaw, settling in tropical climates where life was easy, and developing beautiful cities of stone that were to decay and crumble into ruin. Other clans did not complete all four of their migrations before settling in their permanent home, and hence lost their religious power and standing. Still others persisted, keeping open the doors on top of their heads. These were the ones who finally realized the purpose and the meaning of their four migrations.

For these migrations were themselves purification ceremonies, weeding out through generations all the latent evil brought from the previous

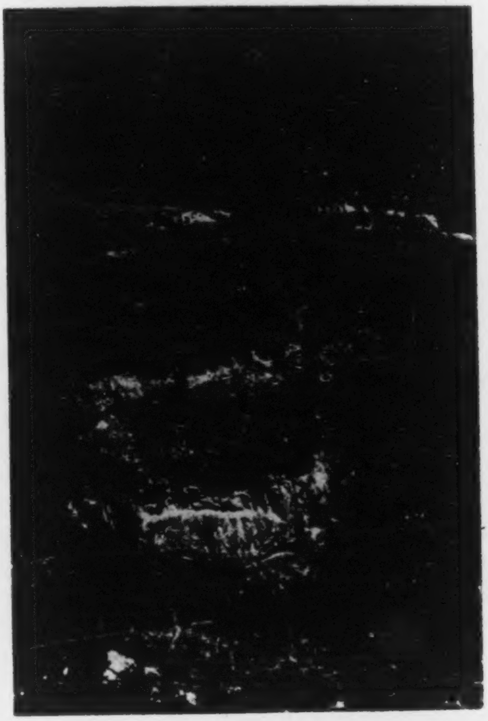
Third World. Man could not succumb to the comfort and luxury given him by indulgent surroundings, for then he lost the need to rely upon the Creator. Nor should he be frightened even by the polar extremities of the earth, for there he learned that the power given him by the Creator would still sustain him. So, by traveling to all the farthest extremities of the land during their four migrations, these chosen people finally came to settle on the vast arid plateau that stretches between the Colorado and Rio Grande Rivers.

Many other people today wonder why these people chose an area devoid of running water to irrigate their sparse crops. The Hopi people know that they were led here so that they would have to depend upon the scanty rainfall which they must evoke with their power and prayer, and so preserve always that knowledge and faith in the supremacy of their Creator who had brought them to this Fourth World after they had failed in three previous worlds.

This, they say, is their supreme title to this land, which no secular power can refute.

ARTICLE ABOUT THE HISTORY OF THE MALPAIS AREA WRITTEN BY BILL AND JUANA WILSON OF GRANTS

El Malpais



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El Malpais

East and westbound travelers crossing New Mexico's magnificent, cloudswept high desert can't possibly miss it. They come upon it suddenly, an incredulous, chaotically jumbled expanse of black lava blocks and ridges strewn across the landscape on both sides of Interstate 40 south and east of Grants. Between mileposts 93 and 94 are two rest areas where travelers can stop to view the narrowest stretch of this colossal volcanic marvel, where its once molten tide was confined within an ancient river valley. Historical markers relate that this particular lava flow originated about a thousand years ago from a volcanic vent almost 25 miles to the southwest.

Its name is El Malpais, the bad lands. Sixteenth century Spanish explorers, attempting to cross it on horseback or afoot, found its jagged, viciously sharp surface almost impossible to traverse. Even today portions of its 130-square mile area remain unexplored, seen only from the air. Modern highways skirt its eastern and western edges, but no improved roads or trails penetrate its stark, mysterious depths.

Virtually all of El Malpais is Federal land, administered by the Department of the Interior's Bureau of Land Management. The U.S. Geological Survey calls it one of the country's most classic volcanic areas. It consists of not one but four distinct lava flows that spewed out across the desert and sometimes overlapped at different periods during the past 400-3,000 years. El Malpais' most outstanding features include volcanic craters, cinder and spatter cones, pressure ridges and lava tubes, sections where the lava's fiery surface cooled and hardened gradually, allowing the still molten flux underneath to drain out leaving a hollow tube or tunnel. Certain of these tunnels exceed 50 feet in diameter and are known to extend for several miles, making them some of the widest, longest lava tubes in the United States. Over the years portions of their roof sections have collapsed, creating natural lava arches or caverns. A few of these, sealed at one end, now contain ice caves. Their gossamer ice crystal ceilings, ice stalagmites and translucent green floors are sustained by near constant, year-round subterranean temperatures.

At several locations throughout El Malpais elevations in the desert terrain caused the advancing lava rivers to divide and flow around them. The resulting verdant islands in a black lava sea became meadows that today support growths of juniper, pinon and ponderosa pine. Largest of these islands, 6,000-acre Hole-in-the-Wall, is a haven for wildlife: antelope, wild turkeys, mule deer, small mammals and reptiles. Hole-in-the-Wall also affords extensive natural cover for several species of tree cavity and ground nesting birds.

The best panoramic views of El Malpais are from Sandstone Bluffs Overlook, exactly ten miles south of Interstate 40's Exit 89 via State Route 117. As you drive south you'll glimpse, on your right, portions of El Malpais' youngest lava flow, as recent as 400-600 years old. The lofty rock cliffs on your left are parts of Las Ventanas Ridge, western boundary of the Acoma Indian Reservation.

Seven and a half miles south of Interstate 40 you'll recognize flat-topped Cebolleta (little onion) Mesa on your left. Two miles beyond the mesa, on your right, is a well-marked turnoff leading to Sandstone Bluffs Overlook. A popular area with picnicers, rock climbers and hikers, the overlook's white rimrock and colorful, eroded, sandstone formations provide several excellent viewpoints from which to see and photograph El Malpais' eastern edge, more than 500 feet below. From here you can see all the way across to El Malpais' western edge where New Mexico's Zuni Mountains mark the purple horizon and the aptly-named Chain of Craters, low symmetrical cinder cones, extend 20 miles to the south.

Before you return to Interstate 40, continue south a few more miles on State Route 117. Five miles beyond the turnoff to Sandstone Bluffs Overlook is another impressive rock formation on your right. It's called La Vieja (the old woman). Two and a half miles farther on you'll encounter a well-worn vehicle trail on your left. Turn in here and stop briefly to explore La Ventana (the window). It's New Mexico's largest natural rock arch. Just beyond it on Route 117 are the Narrows where El Malpais' molten lava flood swept close to the sandstone cliffs' base. This is another popular location for hiking, picnicing, rock climbing and photography. The cliffs are a favorite habitat for golden eagles, prairie falcons and red tailed hawks, birds of prey that are frequently seen soaring high in the sky overhead. This completes your tour of El Malpais' eastern boundary. From here, retrace your route northward to rejoin Interstate 40 east of Grants.

It's quite possible that Native Americans occupied land in the vicinity of El Malpais as early as 12,000 years ago. Village dwelling Indians, ancestors of today's Pueblo tribes, are known to have been here as early as 800 to 1400 A.D. These Anasazi Indians farmed fertile valleys bordering the lava flow, raising corn, beans, cotton and squash. Little trace of them remains today, although four archeological sites have been identified and inventoried, while still others are believed to exist. Examples of exquisite fragile pottery, bearing black and white geometric designs similar to those of today's Acoma potters, have been recovered. However, illegal pot hunters and vandals, trampling cattle and natural deterioration have all taken their toll. It's also interesting to note that legends prevalent among several modern Indian tribes relate how a great river of fire once flooded portions of their ancestors' farms, destroying both fields and crops.

Grants, New Mexico, which borders the northern edge of El Malpais, grew up around a general store and post office established by Simon Bibo in 1882. A decade earlier Don Ramon Baca had homesteaded on San Jose Creek and named his place Alamitos after cottonwood trees that grew in the vicinity. In this way the community's name first became Alamitos. Later it was changed to Grants Camp, then Grant, and eventually Grants, after three Scotch-Canadian brothers who had contracted to build one section of the new Atlantic and Pacific Railroad (now the Santa Fe). In those early days a military wagon road ran from Santa Fe, around the south side of Mount Taylor, across the Malpais to the site of old Fort Wingate, renamed San Rafael. From there the road led southwest to Fort Apache, Arizona (110 miles from Zuni, New Mexico). This road crossed the lava flow about two miles south of the present Interstate 40, presumably following an earlier route of the Dominguez-Escalante Expedition in 1776.

You can easily retrace a portion of that early route, enjoy a short walk through part of El Malpais, visit one of its largest ice caves, and peer deep down into Bandera Crater by leaving Interstate 40 at Exit 81 and following State Route 53 south and west for 26 miles. (If you're traveling west you may elect to continue on to visit El Morro National Monument and Zuni Pueblo before turning north on State Route 32 to rejoin I-40 at Gallup, New Mexico.)

As awesome and majestic as El Malpais appears when seen from your car or Sandstone Bluffs Overlook, it must actually be viewed close-up to appreciate its grim unrelenting reality. Only in this way can the visitor hope to understand the desperate horror of those early Indians, forced to flee stupendous rivers of molten fire that devastated their homes, fields and crops. Only by walking briefly on El Malpais' jagged treacherous surface can one sense the hardships endured by Spanish explorers who crossed the lava flow in search of the mythical Seven Cities of Gold.

The easiest way for visitors to truly come to grips with El Malpais is to stop at David Candelaria's Ice Cave Trading Post and Museum off State Route 53 southwest of Grants. From there you'll follow a well-maintained walking trail through the ponderosa-dotted lava field to reach El Malpais' only easily accessible ice cave. You'll descend a sturdy wooden stairway to reach the cave's icy floor where a constant 31-degree temperature preserves layers of perpetual blue-green ice. Afterward, if you choose, you can ascend another longer foot trail leading to the top of Bandera Crater. Here El Malpais' seething captive heart once unleashed its volcanic wrath upon the surrounding desert. After completing your visit to the ice cave and Bandera Crater, follow State Route 53 to rejoin

Interstate 40 either at Grants or Gallup, New Mexico.

A little more than a century ago Grants, with El Malpais bordering its southern edge, was a burgeoning frontier town. Inevitably El Malpais became part of the community's frontier lore and southwestern pioneer history. A part of this is the story of the Adams lost gold diggings.

J. J. Adams came west from New York to work as a teamster on the frontier. In August 1864 he and seven partners, most experienced miners, discovered gold in substantial amounts in a stream bed below a falls, not far from the old Fort Wingate military road near the southwest corner of today's Cibola County. The men buried part of their gold beneath the hearth inside a hastily constructed log cabin. Six of them, led by a man named Brewer, were then sent north to purchase supplies at Fort Wingate, now San Rafael, southwest of Grants.

The men paid for their supplies in gold and began their return journey to the diggings. On their way they were ambushed by Apache Indians, and only Brewer escaped alive. Several days later while Adams and his one remaining companion were off searching for their friends, the Indians discovered and burned the log cabin. Adams and his companion fled on foot and eventually reached Fort Apache, Arizona. There Adams broke out of jail after being incarcerated for shooting an unarmed Indian.

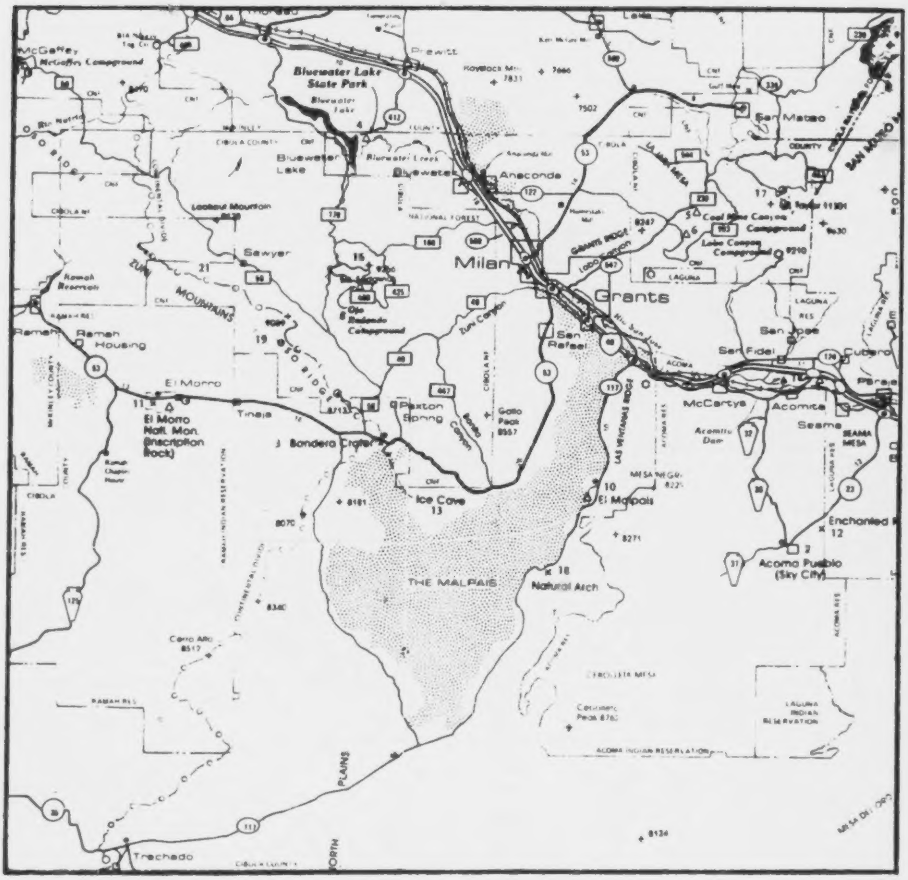
After Adams decided it was safe for him to return to New Mexico during the 1880's, he spent several fruitless years searching for his lost diggings. He described their location to friends as "about four days' journey south of San Rafael," presumably on horseback through the Malpais. Neither the diggings nor Adams' cache of gold has ever been found, although a small settlement called Adams Diggings still exists on State Route 36 southwest of El Malpais today.

Another fascinating bit of pioneer history recalls the story of the last robbery of a Santa Fe passenger train, at Grants. It occurred on a November evening in 1897. Eastbound train no. 2 had just pulled into the station, and brakeman Henry Abel was busy outside cooling off a hotbox on one of the coaches. Suddenly Abel heard shots being fired. He ran toward the head of the train where a bullet neatly creased his crewman's cap. One of the outlaws shoved the business end of a Colt six-gun against Abel's chest.

History fails to record the name of the train's engineer. When the shooting began he jumped from the locomotive's cab and hid under the station platform. In the engineer's absence Henry Abel was ordered into the cab, where two of the hold-up men made him pull the train to another stop near the east edge of town. There the remainder of the train, except for the baggage car carrying the money, was cut loose from the engine. Abel was forced to move the engine and baggage car a mile or two farther east, where other members of the outlaw gang were waiting. They blew open the baggage car's locked door and the door to its safe. Scooping up the safe's contents, estimated at between $100,000 and $200,000, they tied the money in sugar sacks. The eight bandits then rode off into the night in the direction of El Malpais.

On the following morning a special train brought lawmen from Albuquerque to Grants. A Navajo Scout, Jeff King, and several other Indian trackers from Fort Wingate led the lawmen to the outlaws' camp about 40 miles south of Grants. In the ensuing gun fight two of the gang and one of the Navajo scouts were shot dead. Others were later killed or captured in Arizona, Utah and Colorado. One of the gang, Red Pipkin, when captured, went free for lack of identification. Later he told friends that the desperadoes had buried their loot under a juniper tree in El Malpais. The job was done so hastily that no record of landmarks was kept with which to relocate the site. Neither Pipkin nor anyone else was ever able to find it.

- end -


McGaffey
McGaffey Campground
Prewitt
Bluewater Lake State Park
Bluewater Lake
Bluewater Creek
Bluewater
Anaconda
Lookout Mountain
Sawyer
Zuni Mountains
Ramah Reservoir
Ramah
Ramah Housing
El Morro
El Morro Natl. Mon. (Inscription Rock)
Tinaja
Bandera Crater
Paxton Spring
Gallo Peak
Milan
Grants
San Rafael
Ice Cave
THE MALPAIS
Natural Arch
El Malpais
Las Ventanas Ridge
McCartys
Acomita
Acomita Dam
Seama
San Mateo
Coal Mine Canyon Campground
Lobo Canyon Campground
Lobo Canyon
Grants Ridge
San Fidel
San Jose
Cubero
Paraje
Enchanted Mesa
Acoma Pueblo (Sky City)
Laguna Indian Reservation
Acoma Indian Reservation
Ramah Indian Reservation
Continental Divide
Cerro Alto
Trechado
Plains
National Forest
Cibola County

El Malpais

GEOLOGIC STUDY OF EL MALPAIS WRITTEN BY CHARLES H. MAXWELL OF THE U.S. GEOLOGIC SURVEY

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EL MALPAIS

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INTRODUCTION

Anyone who has traveled I-40 between Albuquerque and Grants, New Mexico, must see and wonder about the stretch a few miles east of Grants where the highway passes over and through a basalt field containing rough and contorted black tendrils of lava. Few of the passersby realize that this forbidding bit of primordial landscape is only the last dribble of a large and spectacular badlands that extends southward for another 48 km (30 mi) or more and widens out to 29 km (18 mi) or more. This piece of tortured earth is known as El Malpais, or as the Grants Malpais, to distinguish it from other malpais areas in New Mexico. El Malpais was long known only to the Acoma Indians, or the Anasazi, whose ancient footpaths snake across the badlands following routes that avoid the sink holes, chasms, and fields of aa lava liberally sprinkled over the area. They marked their paths with blocks of sandstone or low rock cairns, many of which are still visible.

Pottery fragments and molds of corn cobs in and under the lava prove that humans occupied the area before the lava did. And, indeed, Acoma legends include many tales about the fire-rock and its effect on their lives. Folklore of the Malpais, generated after the European and American invasions of the region, includes many intriguing treasure tales such as the story of a pair of silver church bells hidden in a cave, a stolen gold-laden mule train hidden in the Malpais, and many other stories of lost treasures including even the lost "Adams Diggings." And, of course, no one was ever able to recover the caches because of the deceptive sameness of the terrain. Many treasures of another sort have been recovered from the Malpais—uncounted and unreported numbers of pottery vessels of various sizes, shapes, and decoration have been found over the years and have been carried out of the Malpais by residents of the region. The pottery was undoubtedly hidden there by the Indians for storage of food and water against an incursion of marauding nomads.

The Malpais provides a fascinating area of study for geologists, biologists, and archeologists alike, and for anyone with curiosity, interest, or adventurous spirit. Most of the physical features of lava eruptions including cinder cones, spatter cones, blocky flows, grooved lava, squeeze-ups, pahoehoe, aa, ropes, collapse depressions, pressure ridges, lava tubes, and ice caves, are present at one place or another.

Wildlife abounds in the Malpais, though many of the "sport" animals have been decimated by hunting and poaching. The region is host to more than 100 species of birds, both resident and migratory, 39 species of mammals, and 9 species of reptiles and amphibians (Bureau of Land Management, 1981). Larger animals are restricted to areas where water is readily available, mostly from wells pumped by windmills, but water is present in caves and sinks in many of the depressions. These areas host enclaves of wildlife especially adapted to conditions in the Malpais, including some animals not commonly seen in the region.

Rock structures, presumably built by the Indians, can be found throughout the region. Many are in unlikely places deep inside the Malpais. Most are simple little shelter walls or half walls across cave mouths but some are large, complex, well-built structures which might look like gateposts and flanking curved walls at the entrance to a ranch, or like large, symmetrical beehive cairns. Perhaps they are the work of bored sheepherders.

Several concerted efforts were made during the past 20 years to have the Malpais declared a National or State Park or Monument in order to preserve the area from development or vandalism and to make the area more accessible for recreation. Formal action began in 1969 when the Bureau of Land Management declared the area eligible to be a National Natural Landmark. It was designated an Outstanding Natural Area in 1974, and during 1978-80, studies were made to determine the feasibility of incluidng El Malpais in the National Wilderness Preservation System. It is currently a Proposed Wilderness Area (Bureau of Land Management, 1981).

GEOLOGIC FEATURES

The Malpais was the subject of geologic mapping by Dutton in 1885 and by Darton in 1915 and of an extensive geomorphic study by Nichols (1946). The northern part was mapped by Goddard (1966) and Thaden and others (1967a, b), and detailed petrochemical studies were made by Renault (1970), Lipman and Moench (1972), Laughlin and others (1971, 1972), Cardin and Laughlin (1974), and by many others.

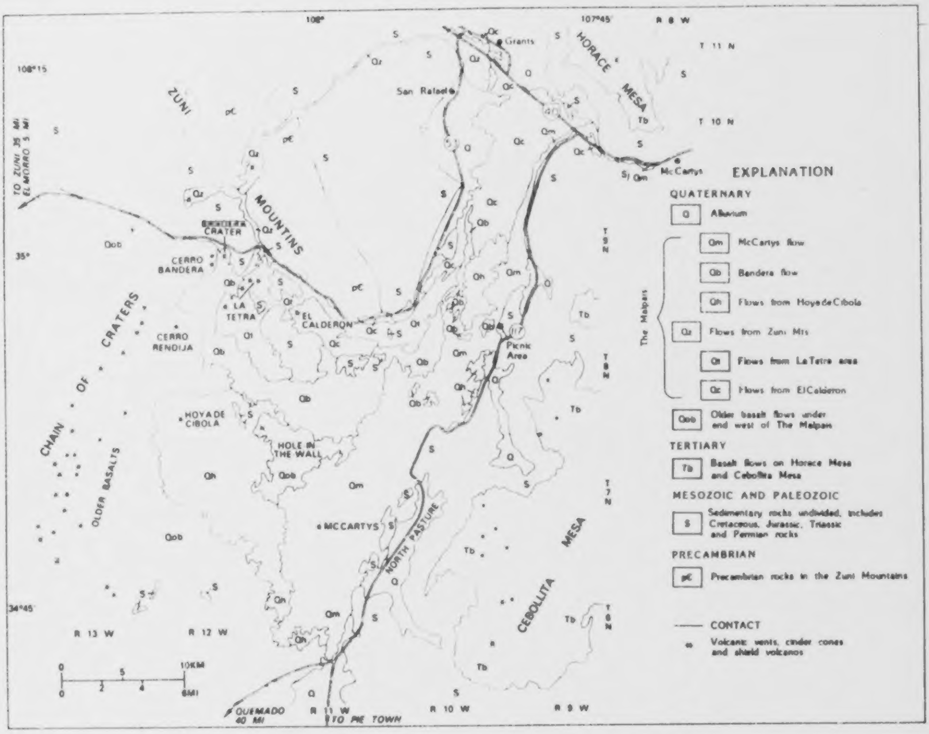
The Malpais area was mapped in some detail during recent wilderness evaluation studies (Maxwell, 1981), and five flow units have been delimited within the lava field (fig. 1). The flow units were identified initially using aerial photographs. Subsequent field checks at many localities resulted in considerable revision of the units based on lithology and petrography, flow characteristics, type and amount of weathering, and differences in vegetation. None of the criteria for separation of flow units were consistent everywhere, and designation of the units shown on Figure 1 was based on cumulative observations of all criteria.

Quaternary basalt flows in the region are divided into two groups, an older group and the younger Malpais flows. The older group, exposed west and south of the Malpais field, is deeply weathered and mostly covered by relatively well-developed soil and eolian deposits. The oldest flows are locally overlain by slightly younger flows, which may be contemporaneous with the oldest flows of the Malpais, and by pyroclastic debris and cinder cone deposits, some of which could also be as young as the Malpais.

Pyroclastic debris deposits are composed mostly of basaltic lava mixed with and covered by cinders, bombs, scoria blocks, and flow breccia. They appear to have been deposited by violent explosions prior to development of the cinder cones.

The cinder cones are composed of basaltic ash, cinders, bombs, angular blocks of scoria, and minor flows of glassy lava. The most prominent but most inaccessible cinder cones form the Chain of Craters west of the Malpais. There are 30 cones in the Chain of Craters compared with eight cones plus two shield volcanoes in the Malpais field. The cinder cones range in height from about 1 meter to more than 170 m, and many are a kilometer or more in diameter. A few cones are symmetrical with a central depression as much as 80 m deep over the vent, but most cones have been breached on one side and are more or less crescent shaped. Bandera Crater, adjacent to State Highway 53 at Ice Cave, is the most accessible and one of the largest of the cinder cones. It is breached but still nearly symmetrical.

Chemical analyses show that basalts of both alkalic and tholeiitic affinities are present in the Malpais field. Most tholeiitic types are high-


108°
107°45'
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35°
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R 8 W
T 11 N
T 10 N
T 9 N
T 8 N
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T 6 N
R 13 W
R 12 W
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R 10 W
R 9 W
Grants
San Rafael
HORACE MESA
ZUNI MOUNTAINS
McCartys
TO ZUNI 35 MI
EL MORRO 5 MI
BANDERA CRATER
CERRO BANDERA
LA TETRA
EL CALDERON
CERRO RENDIJA
CHAIN OF CRATERS
HOYA DE CIBOLA
HOLE IN THE WALL
OLDER BASALTS
MCCARTYS
NORTH PASTURE
CEBOLLITA MESA
Picnic Area
QUEMADO 40 MI
TO PIE TOWN
0 5 10KM
0 2 4 6MI
EXPLANATION
QUATERNARY
Q Alluvium
Qm McCartys flow
Qb Bandera flow
Qh Flows from Hoya de Cibola
Qz Flows from Zuni Mts
Qt Flows from La Tetra area
Qc Flows from El Calderon
The Malpais
Qob Older basalt flows under and west of The Malpais
TERTIARY
Tb Basalt flows on Horace Mesa and Cebollita Mesa
MESOZOIC AND PALEOZOIC
S Sedimentary rocks undivided, includes Cretaceous, Jurassic, Triassic and Permian rocks
PRECAMBRIAN
pC Precambrian rocks in the Zuni Mountains
CONTACT
Volcanic vents, cinder cones and shield volcanos

Figure 1. Geologic map of El Malpais and surrounding area, New Mexico.

alumina tholeiites and verge on being calc-alkaline. The Paxton Springs flow is sodic-alkalic basalt. Basalts are impoverished in total strontium, and the strontium isotope ratios are low (Laughlin and others, 1972). Various authors who have studied these basalts generally believe that they are derived from fractionation of mantle material at depth, with little or no differentiation and little crustal contamination.

FLOW UNITS

The youngest flow unit is McCartys flow (Qm on fig. 1); it originated at a small cinder cone in the southern part of the Malpais field, about 40 km south-southwest of highway I-40. Some lava from this vent flowed south for about 10 km, but most of the lava flowed northward to the Rio San Jose and then eastward for about 8 km. Although this flow has not been dated accurately, Nichols (1946) inferred the age to be about 1,000 years on the basis of Acoma Indian legends and on the presence of archeological material in nearby valley fill that was correlated with the alluvium underlying McCartys flow. The flow could be as young as 400 years.

The McCartys flow unit is generally unweathered, uneroded, and relatively barren of vegetation, and it shows in excellent exposures most of the physical features of basalt flows (Nichols, 1946). The rock is hypocrystalline and porphyritic with subhedral to euhedral phenocrysts of plagioclase and olivine in a groundmass of subhedral plagioclase, anhedral olivine, pyroxene, and tachylite heavily dusted with opaque minerals. Near the vent the rock is a quartz-normative tholeiite containing plagioclase phenocrysts, and at distances greater than 4 km from the vent it is an olivine-normative tholeiite containing olivine phenocrysts (Carden and Laughlin, 1974).

The next-youngest flow unit, the Bandera flows (Qb on fig. 1), originated at Bandera Crater and flowed south and east around the Zuni Mountains and then north to a point about 12 km south of Grants. Bandera Crater is an ideal example of a breached cinder cone. It is steep sided and symmetrical, more than 1 km in diameter and 150 m high, and has a central depression 180 m below the rim and 80 m below the breach on the southwest side of the cone. A large lava tube begins in the flows at the breach and extends to the south and east for 20 km, possibly continuing as far as 30 km from the crater (Hatheway and Herring, 1970). The tube is totally collapsed for the first half mile and has smaller collapse areas all along its length. Ice Cave, with its deposit of perpetual ice, developed in the lava tube near the crater; other ice caves occur at other localities in the tube. Ice forms where the cave mouth is shielded from the summer sun, where air circulation through the cave is minimal, and where the overlying rock is thick enough to maintain a temperature low enough that less ice melts in the summer than freezes in the winter.

An extensive deposit of fine cinders extends north, east, and south of the crater, covering older sedimentary rocks and lava flows. The cinders are well exposed in highway cuts, in pits adjacent to the highway, and along the road to Ice Cave.

Rocks of the Bandera field are alkali basalts that are typically holocrystalline and microporphyritic with euhedral phenocrysts of olivine, rare clinopyroxene, and plagioclase, in a vesicular groundmass of plagioclase (An[illegible]), pyroxene, opaque minerals, and very minor olivine (Laughlin and others, 1972). Ultramafic rock fragments of dunite and pyroxenite, interpreted to have a mantle origin, are found as cores in bombs that were ejected in the final eruptions from Bandera Crater (Laughlin and others, 1971).

A large area of flows in the southwestern part of the Malpais field originated from Hoya de Cibola crater and shield volcano (Qh of fig. 1). Lavas from these vents flowed east-northeast and southeast where they are overlain by the Bandera and McCartys flows. Several small windows of similar rocks under the McCartys flow, north of the Los Pilares area, and a large area in the northeastern part of the field (Maxwell, 1977) are correlated with the Hoya de Cibola flows on the basis of similarity of composition, flow characteristics, weathering, and vegetation. The Hoya de Cibola flows are tholeiites similar to the McCartys flow but are slightly higher in aluminum and alkalis and lower in magnesium and titanium.

The map unit shown as Qt on Figure 1 is made up of several overlapping flows that emanated from different vents and that were difficult to separate into units because all have similar flow and weathering characteristics. Most of the flows along Highway 53 belong in this unit. The flows comprising this unit issued from several cinder cones in the La Tetra area that form a northeast-trending line of vents from the Lost Woman center on the southwest, Twin Craters near the center, and La Tetra–Cerro Candelaria to the northeast. In several areas, mixed deposits of pyroclastic rocks and lava surround the cinder cones and partially obscure sedimentary rocks. Causey (1970) classified rocks from Twin Craters and Lost Woman center as alkalic basalt and those from La Tetra as tholeiite. Laughlin and others (1972) state that the basalt from La Tetra plots slightly within the alkalic field although it is hypersthene normative and should probably be termed a tholeiite.

The oldest flows in the Malpais field (Qc of fig. 1) originated in part from El Calderon crater and perhaps from other centers to the west that are now covered by younger flows. The Laguna flows of Nichols (1946) are interpreted to be from the same sources based on similarities of lithology, morphology, weathering, and stratigraphic position. Some rocks included with the older basalts west of the Malpais field (notably Cerro Bandera and Cerro Rendija) also have similar morphology and weathering to the El Calderon flows and possibly should be correlated with this unit. Rocks of the El Calderon unit are relatively coarse-grained and porous, with small voids between groundmass plagioclase and subophitic augite, and with interstices between plagioclase laths filled with brownish glass dusted with abundant opaque minerals. Chemically, these basalts plot within the tholeiitic field (Lipman and Moench, 1972).

Flows from the Zuni Mountains (Qz of fig. 1) are not properly part of the Malpais field. Two separate flow units are included here. The older flow originated from a lava cone on Oso Ridge, northwest of Bandera Crater, and flowed eastward to Agua Fria Creek and then southward almost to the Malpais flows. This older flow is overlain by the Paxton Springs flows, which originated from a small center in the Precambrian core of the Zuni Mountains, then flowed about 2 km south and 25 km northeast, down Zuni Canyon, to the area between Grants and San Rafael. The rock is a nepheline normative alkali-olivine basalt containing microphenocrysts of euhedral olivine, rare clinopyroxene, and plagioclase in a holocrystalline and vesicular groundmass of plagioclase, pyroxene, and opaque minerals (Laughlin and others, 1972).

The older basalt flows (Qob) west of the Malpais field are generally deeply weathered and are mostly covered with soil and alluvium that produces open grasslands surrounding small outcrops of basalt. These rocks were dated at 788,000 years (Qc?) and 1.38 m.y. near Cerro Bandera, several miles west of the map area (Luedke and Smith, 1978).

The basalt flows (Tb) on Cebollita and Horace Mesas, east and north of the Malpais field, are silicic alkali-olivine basalts with potassium-argon ages of 2.3 to 3.5 m.y. (Bassett and others, 1963).

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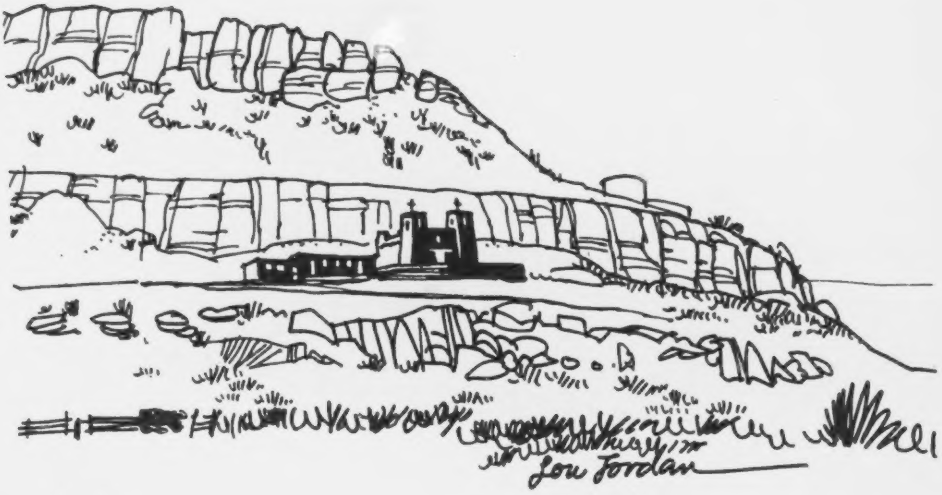

McCartys

COPY OF A BUREAU OF MINES/U.S. GEOLOGIC SURVEY STUDY INDICATING LOW TO NIL MINERAL VALUE FOR A SECTION OF THE EL MALPAIS AREA (NOT A COMPLETE SURVEY OF THE ENTIRE AREA)

OFFICE COPY

UNITED STATES DEPARTMENT OF THE INTERIOR

GEOLOGICAL SURVEY

Mineral Resource Potential of the El Malpais Instant Study Area and Adjacent Areas, Valencia County, New Mexico

By
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Open-File Report 81-557
1981

This report is preliminary and has not been
edited or reviewed for conformity with U.S.
Geological Survey standards.

Mineral Surveys
Wilderness Studies Related to
Bureau of Land Management

The Federal Land Policy and Management Act (Public Law 94-579, October 21, 1976), requires the U.S. Geological Survey and the Bureau of Mines to conduct mineral surveys on certain areas to determine their mineral resource potential. Results must be made available to the public and be submitted to the President and the Congress. This report presents the results of a mineral survey of the El Malpais Instant Study Area and adjacent areas, Valencia County, New Mexico.

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SUMMARY

A geologic and geophysical investigation and a survey of the mineral occurrences have been conducted to determine the mineral resource potential of the El Malpais Instant Study Area, Valencia County, New Mexico. The study area includes the El Malpais basalt field and the west and south flanks of Cebollita Mesa. The basalt field is composed of Quaternary tholeiitic basalt flows, the youngest less than 1,200 years old. Cebollita Mesa, capped by Tertiary basalt flows, is composed of Upper Cretaceous shale, siltstone, and sandstone, with thin coal beds in the uppermost part. Some investigations were also conducted outside the study area, notably in the Precambrian rocks of the Zuni Mountains fluorspar mining district.

Known exposures of mineral resources within the boundary of the study area are limited to basalt, scoria, and coal, none of which are considered a significant resource. Basalt and scoria occur in huge amounts outside the study area, nearer to transportation, where they are more economical to mine. Coal occurs in thin beds, generally less than 1 ft (0.3 m) thick so is not considered an economic resource.

Of the minerals known to occur nearby but outside the study area, only fluorspar can be projected to occur in the subsurface inside the study area, but too deep to be an economic resource. There are no known deposits of oil or gas in or near the study area. The mineral resource potential of the El Malpais Instant Study Area is judged to be very low to nil.

INTRODUCTION

Location and setting

A mineral survey of the El Malpais Instant Study Area and adjacent areas, New Mexico, was made in 1978 and 1979 by the U.S. Geological Survey and the U.S. Bureau of Mines. The area studied consists of two roadless areas, contiguous on either side of State Road 117, in Valencia County, New Mexico, about 5 mi (8 km) south of Grants (fig. 1). The Cebollita area is east of 117 and west of the Acoma Indian Reservation and lies on the west flank of Cebollita Mesa. The El Malpais area is west of 117 and is an area of lava flows and volcanic craters; it includes the El Malpais Natural Area, established as an Outstanding Natural Area by the U.S. Department of Interior in 1974, plus adjacent lands to the west. The two roadless areas occupy a total of about 141,430 acres (57,236 ha) of public lands, including 26,321 acres (10,660 ha) west of the natural area and in the Cebollita area east of road 117, about 84,000 acres (34,020 ha) in the El Malpais Natural Area, and 31,000 acres (12,545 ha) of contiguous lands.

The terrane in the Cebollita area is cut across sedimentary rocks; conspicuous features are remnant buttes and pillars underlain by nearly horizontal beds of sandstone. The terrane in the El Malpais area is characterized by lava flows and volcanic craters. The El Malpais Natural Area contains the more recent flows and is nearly continuously covered by them. The adjacent lands to the west contain older and more weathered flows. Conspicuous features in the El Malpais area are volcanic craters and shield volcanoes, about 500 ft (150 m) high, and scattered islands (called steptoes) of sedimentary rocks surrounded by lava. The most recent of the lava flows, the McCartys flow, occupies a strip several miles wide along the eastern and southern edge of the El Malpais Natural Area. It is estimated to be less than

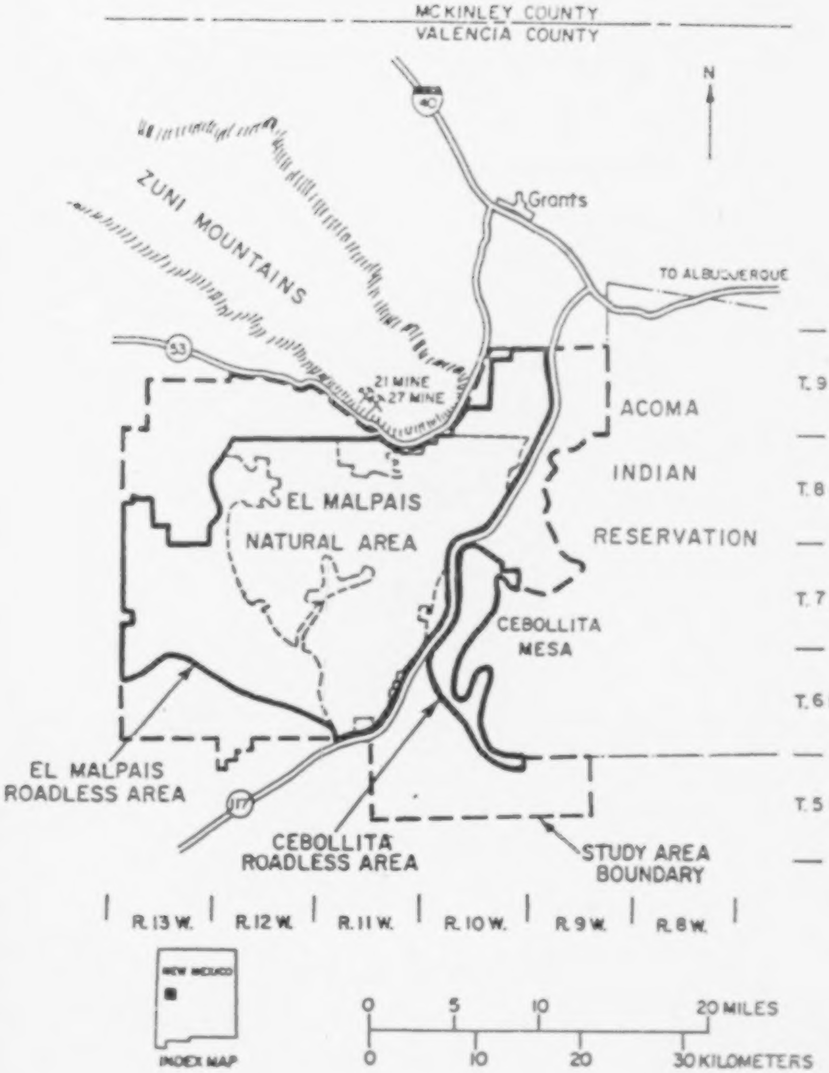
MC KINLEY COUNTY
VALENCIA COUNTY
N
40
Grants
TO ALBUQUERQUE
ZUNI MOUNTAINS
53
21 MINE
27 MINE
ACOMA
INDIAN
RESERVATION
EL MALPAIS
NATURAL AREA
CEBOLLITA
MESA
T. 9 N.
T. 8 N.
T. 7 N.
T. 6 N.
T. 5 N.
EL MALPAIS
ROADLESS AREA
117
CEBOLLITA
ROADLESS AREA
STUDY AREA
BOUNDARY
R. 13 W.
R. 12 W.
R. 11 W.
R. 10 W.
R. 9 W.
R. 8 W.
NEW MEXICO
INDEX MAP
0
5
10
20 MILES
0
10
20
30 KILOMETERS

Figure 1.--Index showing location of the El Malpais and Cebollita roadless areas, New Mexico, and locations of the 21 and the 27 fluorspar mines.

1,200 years old (Nichols, 1946). It is bare of vegetation, black colored, and extremely fresh looking. Its surface is mostly ropy textured. Ridges and valleys lie parallel to the direction of flow. Features such as pressure ridges, squeeze-ups, spatter cones, lava tubes, and collapse depressions are displayed in the lava.

Access to the study area is from State Roads 117 or 53. Route 117 leaves Interstate 40 about 5 mi (8 km) southeast of Grants, runs southwest along the east flank of the El Malpais Instant Study Area, and also bounds the Cebollita area to the east. State Highway 53 goes from the west end of Grants, reaches the west flank of the lava flows near where they pass around the southeast toe of the Zuni Mountains, and then goes west, north of the lava and south of the Zuni Mountains. A number of dirt roads, trails, and graveled roads run through the western part of the El Malpais area. In the middle of the El Malpais Natural Area there is an area surrounded but uncovered by lava, reached by a dirt road from the southwest.

Elevation ranges from 6,500 ft (1,980 m) where lava flows cover the northeast end of the study area, to about 8,100 ft (2,470 m) at the rims of craters on the west side of the lava cover; older craters further west reach up to 8,305 ft (2,545 m). The highest slopes of the Cebollita area are about 9,300 ft (2,530 m) at the edge of Cebollita Mesa.

Vegetation in the study area is mostly sagebrush, grass, and clumps of ponderosa pine with mixed piñons and junipers.

Mining activity

Inside the study area past or present mineral activity is limited to shallow gypsum diggings, a road metal quarry, and four geothermal heat-flow gradient test holes, all in the Malpais area. The closest significant mining activity outside the study area was for fluorspar, mostly during the period 1941 to 1953 at the 21 and 27 mines, about 1 mi (1.6 km) north of the study area.

GEOLOGY AND GEOPHYSICS

Geologic setting

El Malpais Instant Study Area occupies part of North Plains, located in the southeastern part of the Colorado Plateau physiographic province, and is bordered on the south by the Datil volcanic field, on the north by the Zuni Uplift, and on the east by the Acoma Embayment of the San Juan Basin. North Plains is floored by Quaternary basalt and alluvium. The Datil volcanic field is not exposed in the study area. The Zuni Uplift is an elongate domal structure with a Precambrian granitic core mantled by gently dipping Permian, Triassic, Jurassic, and Cretaceous sedimentary rocks. The Acoma Embayment includes relatively flat-lying Cretaceous sandstone and shale. Table 1 lists the thickness, lithology, and outcrop characteristics of sedimentary rocks in the study area. Figure 2 is a generalized geologic map of the region showing the approximate outlines of the study area.

The major structural and physiographic units in the study area are Cebollita Mesa on the eastern side, the southern tip of the Zuni Mountains dome on the northern side, and North Plains in the central, southern, and western parts of the area. North Plains and Cebollita Mesa are separated by a complex fault zone that trends N. 25-30° E., west side generally down, and with a postulated right-lateral component. In the northeast corner of the area and to the north the fault zone fans out to eastward- and northeastward-trending faults and into the north-trending, eastward-dipping Grants monocline. The cluster of cinder cones in the western part of the map appears to have been extruded along a series of north-trending en echelon faults in a zone that also trends about N. 30° E. and would also have a right-lateral component of movement impinging on and distorting the southwestern flank of

Table 1.—Thickness, lithology, and topographic expression of the sedimentary rocks in the El Malpais Instant Study Area

[To convert meters to feet, multiply by 3.28]

Geologic age Name of unit	Thickness (meters)	Lithology	Topographic expression
Upper Cretaceous			
Crevasse Canyon Formation	70-90		
Gibson Coal Member	20-25	Sandstone, siltstone, shale, coal beds	Ledgy slopes, rounded hills.
Dalton Sandstone Member	15-20	Sandstone	Cliffs, steep slopes.
Mulatto Tongue-Mancos Shale	0-30	Siltstone, shale	Steep slopes, landslides.
Dilco Coal Member-Crevasse Canyon Formation	35-45	Siltstone, sandstone, shale, coal beds	Steep slopes, landslides.
Gallup Sandstone	80-100		
Upper member main part	20-30	Sandstone, siltstone	Cliffs.
Shale member	40-50	Siltstone, shale	Steep slopes, landslides.
Gallego Member	~20	Sandstone, siltstone	Cliffs, ledgy slopes.
D-Cross Tongue-Mancos Shale	8-20	Shale	Steep slopes, landslides.
Tres Hermanos Member of Mancos Shale	90-100	Sandstone, siltstone, carbonaceous shale	Cliffs, ledges, steep slopes.
Mancos Shale and Dakota Sandstone	140-280		
Shale tongue-Mancos	70-90	Shale	Landslides, steep slopes.
Twowells Tongue-Dakota	1-25	Sandstone, siltstone	Cliffs.
Whitewater Arroyo Tongue-Mancos	23-47	Shale	Landslides, steep slopes.
Paguate Tongue-Dakota	10-30	Sandstone, siltstone	Cliffs, steep ledgy slopes.
Clay Mesa Tongue-Mancos	~10	Shale	Steep slopes, landslides.
Cubero Tongue-Dakota	0-10	Sandstone	Cliffs.
Oak Canyon Member-Dakota	20-30	Sandstone, siltstone, carbonaceous shale	Ledgy slopes and hills.
Upper Jurassic			
Morrison Formation	0-10	Shale, sandstone, conglomerate	Landslides, steep slopes.
Zuni Sandstone	80-150	Eolian sandstone	Cliffs, round steep slopes.
Middle Jurassic			
Summerville Formation	~30	Fluviatile sandstone	Steep ledgy slopes, cliffs.
Todilto Limestone	0-1	Limestone	Ledge.
Entrada Sandstone	~100	Eolian sandstone	Cliffs, steep rounded slopes.
Triassic			
Chinle Formation	360-460	Shale, siltstone, sandstone	Broad flats, badlands.
Moenkopi(?) Formation	0-15	Sandstone, conglomerate, siltstone	Ledges and cliffs.
Lower Permian			
San Andres Limestone	35-44	Limestone, minor shale	Cliffs, dip slopes, hogbacks.
Glorieta Sandstone	45-50	Sandstone	Cliffs, hogbacks, dip slopes.
Yeso Formation	~400	Siltstone, sandstone, shale, gypsum	Flats, broad slopes.
Abo Formation	~400	Sandstone, siltstone, shale	Cliffs, ledges, steep slopes.
Precambrian			

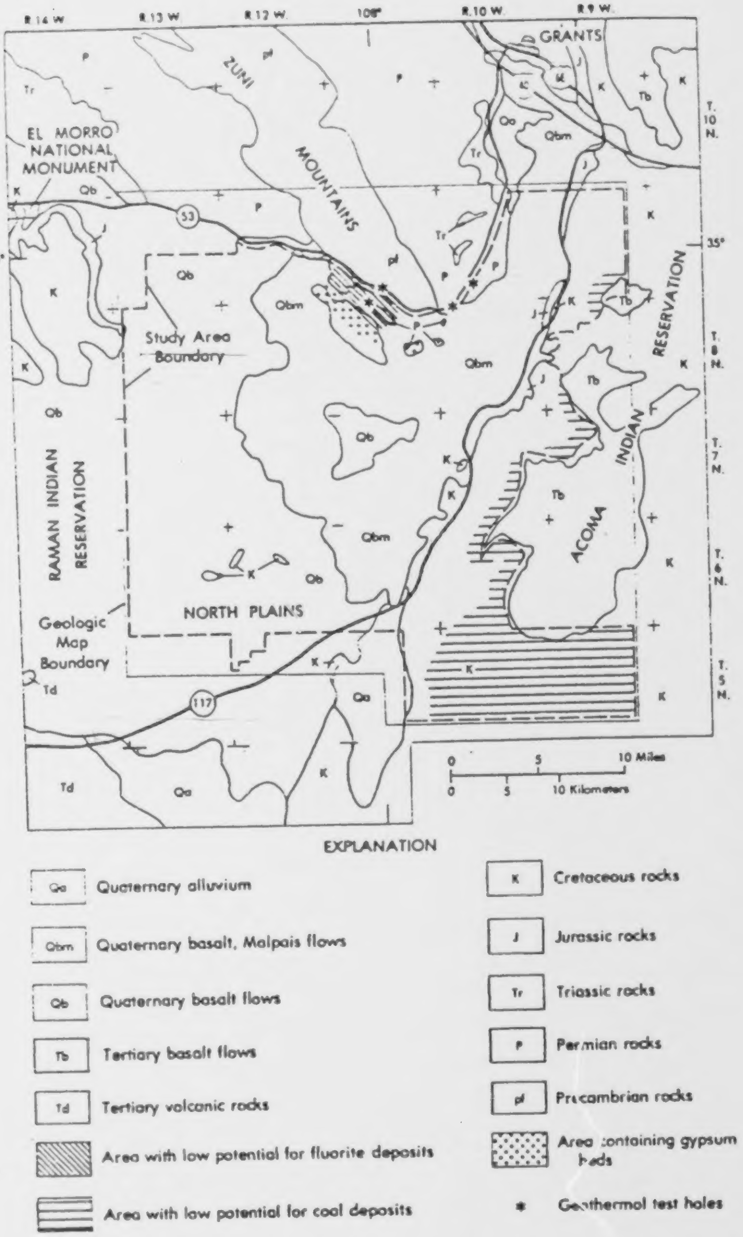
R.14 W.
R.13 W.
R.12 W.
108°
R.10 W.
R.9 W.
GRANTS
ZUNI
MOUNTAINS
EL MORRO NATIONAL MONUMENT
53
35°
Study Area Boundary
RAMAN INDIAN RESERVATION
Geologic Map Boundary
NORTH PLAINS
117
ACOMA
INDIAN
RESERVATION
T. 10 N.
T. 8 N.
T. 7 N.
T. 6 N.
T. 5 N.
Qa
Qbm
Qb
Tb
Td
K
J
Tr
P
pЄ
0
5
10 Miles
0
5
10 Kilometers
EXPLANATION
Qa Quaternary alluvium
Qbm Quaternary basalt, Malpais flows
Qb Quaternary basalt flows
Tb Tertiary basalt flows
Td Tertiary volcanic rocks
Area with low potential for fluorite deposits
Area with low potential for coal deposits
K Cretaceous rocks
J Jurassic rocks
Tr Triassic rocks
P Permian rocks
pЄ Precambrian rocks
Area containing gypsum beds
* Geothermal test holes

Figure 2.--Mineral resource potential and generalized geologic map of the El Malpais Instant Study Area and adjacent areas, Valencia County, New Mexico.

the Zuni uplift. The positions and attitudes of several steptoes of sedimentary rocks in the basalt flows south of the Zuni uplift imply the presence of faults or folds with a north to west trend, now completely hidden by the lava cover. Three prominent Holocene faults in the southern part of the area, and extending several kilometers to the south, are expressed in the lava flows by a series of short en echelon open crevices or fissures. The lack of alluvial fill in the fissures indicates a very young age for the faulting. Numerous, small fault scarps preserved in unconsolidated alluvium near the eastern edge of North Plains are also very young.

Aeromagnetics

The lava flows that comprise most of the El Malpais Instant Study Area are composed of tholeiitic basalt ranging from about 1 m.y. to 1,200 years old or less. Steptoes in the basalt field include Permian Yeso Formation, Glorieta Sandstone, and San Andres Limestone in the northern part, and Cretaceous Dakota Sandstone in the southern part.

Cebollita Mesa, along the eastern side of the study area, is composed of relatively flat-lying Cretaceous Dakota Sandstone, Mancos Shale, Gallup Sandstone, and the coal-bearing Crevasse Canyon Formation, capped at the top by Tertiary basalt flows.

Precambrian rocks in the core of the Zuni Mountains are exposed on the northern border of the study area and are flanked by outward-dipping Permian Abo Sandstone and Yeso Formation.

The aeromagnetic data (Maxwell, in press) include several prominent anomalies, all but one of which closely match known geologic features. Two magnetic lows correspond to outcrops of sedimentary rocks at Cerritos de Jaspe and the Narrows. Several small, sharply defined highs and lows on Cebollita Mesa correspond well with lava cones and vent areas, some as lows, others as highs, and Cebollita Peak as a sharp high and shallow low. A north-south elongation of the highs and lows matches the observed and postulated N-S faults and the alinement of vents on the mesa. A broad zone of small anomalies in the western part of the study area corresponds to a cluster of cinder cones; several cones coincide with sharp highs and several with the lows, but an equal number of highs and lows have no corresponding surface expression. An anomaly in the northeastern part of the study area is not easily explained by the surface geology; part of the high is over the same sedimentary rocks as the lows mentioned above, and the remainder is over the same sequence of lava flows that continues to the south and west of the anomaly. The anomaly may be the expression of a heretofore unsuspected intrusive, or lava flows whose vent or source area has been covered by subsequent flows.

MINING DISTRICTS AND MINERALIZED AREAS

Mining districts and known mineralized areas

There are no mining districts inside the area. Past and present mineral and drilling activity within the El Malpais Instant Study Area has been limited to shallow gypsum diggings, a road metal quarry, and four geothermal heat-flow gradient test holes, all in the El Malpais area.

Near the El Malpais area there are a number of road metal cinder pits and small gravel quarries, along State Highway 53 around the southeast end of the Zuni Mountains. The cinder pits are northeast and northwest of Bandera Crater. There is a limestone pit east of the Bonita Canyon road and rotten granite pits west of the 27 mines road both north and south of Highway 53.

About 4,000 acres (1,620 ha) in the El Malpais area and 3,000 acres (1,215 ha) in the Cebollita area were under oil and gas lease at the time of the record plat examination, and most all of the Federally owned oil and gas in the townships adjacent to the study area on the southeast were also in oil and gas leases, but there are no known deposits of oil and gas or any other leasable mineral other than coal and possibly geothermal resources in or near the study area.

The eastern edge of the Cebollita area is an area of potential mineral interest because it is partly underlain by two possibly coal-bearing members of the Crevasse Canyon Formation. In the El Malpais area, localities of possible mineral interest are apparently limited to two areas. One, near the Zuni Mountains, is an area of potential geothermal resource and has fluorspar veins which might also occur at depth in the Precambrian rocks. The other area is in the Cerritos de Jaspe and eastward where gypsum beds crop out in the Yeso Formation.

Cebollita area, eastern edge

The Cebollita area lies across the northwestern margin of the Datil Mountains Coal Field, where coal is present in the Dilco and the Gibson, the basal and the uppermost members, respectively, of the Crevasse Canyon Formation of Late Cretaceous age. Reported coal seam thicknesses within 6 mi (10 km) north of the Cebollita area are of beds of carbonaceous shale and coal 1.6 to 4.9 ft (0.5 to 1.5 m) thick in the Dilco Member and less than 3.3 ft (1 m) thick in the Gibson Member (Maxwell, 1977). Coal seam thickness is also reported, ranging from 3 to 7 ft (0.9 to 2.1 m) in the general area of 10 sections nominated for coal leasing in 1976 during the Bureau of Land Management's EMARS program, within 8 mi (6.4 km) northeast and southeast of the Cebollita area.

El Malpais area, near the Zuni Mountains

The north edge of the lava in El Malpais Natural Area laps onto the Precambrian gneiss of the Zuni Mountains, which contains mined fluorspar veins. The 27 mine and the 21 mine areas are about 1 mi (1.6 km) north of the Malpais area. The fluorite veins consist mostly of coarsely crystalline, green fluorite and also of mixed fluorite and wall-rock breccia cemented by fine-grained, purple fluorite. Some calcite, quartz, and barite are contained with the fluorite, but sulphides are notably absent. The veins range from several inches to 15 ft (5 m) thick and strike mostly northeast to east and dip steeply southeast to east. They are interpreted to be open-space fillings in fissures developed along faults of small (about 3 ft or 1 m) displacements. The veins are thickest where the strike or dip abruptly changes (Goddard, 1966).

The fluorspar vein closest to the study area (Goddard, 1966) is about 2,000 ft (600 m) north of Highway 53; it is exposed for about 20 ft (6.1 m) along a grassy hillside, trending approximately N. 65° E. and dips 60° SE. About 2 in. (5 cm) of green fluorite in silicified breccia is apparent, and a 2-in. (5-cm) chip sample (no. 1) across the material contained 95.7 percent CaF_2. A 5-in. (13-m) chip sample (no. 2) was also taken across adjacent footwall material and contained 41.1 percent CaF_2.

Further north, two fluorspar prospects were sampled. One, the Mack prospect, is about 3/4 mi (1.2 km) north of Highway 53 and 1/4 mi (0.4 km) west of the Bonita Canyon road. The working consists of a partly filled trench about 120 ft (37 m) long, 4 ft (1.2 m) wide, and as much as 7 ft (2.1 m) deep. An irregular vein of brecciated, purple and green fluorspar is exposed, 3 in. (7.6 cm) thick at most, on the trench floor, striking N. 20° E. and dipping 80° NW. Brecciated, intermixed fluorspar and wall rock is also present in the dump. A 3-in. (7.6-cm) chip sample (no. 3) was taken across the vein and contained 71.7 percent CaF_2.

The other prospect is a shallow, sloughed-over trench about 40 ft (12 m) long, about 900 ft (275 m) south of Highway 53, opposite the 27 mine road. A grab sample (no. 4) taken from among rock debris surrounding the trench assayed less than one percent CaF_2.

A fluorspar vein at the portal of Tunnel No. 1, the northeasternmost working in the 27 mine area, was also sampled. The vein was of green fluorspar, 18 in. (45.7 cm) across. The sample (no. 5) contained 98.0 percent CaF_2.

The entire Zuni Mountain region is of interest due to its potential for dry, hot-rock geothermal energy sites (Laughlin and West, 1976). In late winter 1978, four heat-flow gradient test holes were drilled near Highway 53 and the north boundary of the study area off the southeast end of the Zuni Mountains. The drilling was done by Geothermal Services, Inc. of San Diego, California, for Sunoco Energy Development Co. of Dallas, Texas. Hole locations and depths (A. O. Ramo, written commun., 1979) are given below.

Hole No.	Depth	Location
2A	440 ft (134.2 m)	NW1/4SW1/4, sec. 28, T. 9 N., R. 10 W.
4A	300 ft (91.5 m)	NE1/4NE1/4, sec. 3, T. 8 N., R. 11 W.
5	360 ft (109.8 m)	NE1/4SW1/4, sec. 10, T. 8 N., R. 11 W.
6	400 ft (122.0 m)	SE1/4NE1/4, sec. 6, T. 8 N., R. 10 W.

Because there is much groundwater influence in this area (B. Williams, oral commun., 1979), the heat flow measurements may not have been reliable, and it is not known whether any other measurements were made. The Sunoco Energy Development Co. reports (A. Ramo, written commun., 1979) that the data acquired in this drilling program were inconclusive in the determination of the geothermal potential of the area.

El Malpais area, Cerritos de Jaspe and Little-Hole-in-the-Wall

Gypsum occurs in the upper member of the Yeso Formation, cropping out in the Cerritos de Jaspe and on the east sides of a steptoe in the Little-Hole-in-the-Wall east of Cerritos de Jaspe. At the south end of the Cerritos de Jaspe, a 6-ft (1.8-m) layer of gypsum occurs between gypsiferous earth and siltstone, trending about N. 40° W. and dipping about 20° SW. A 10-in. (25.4-cm) specimen chip (no. 8) taken across bedding in the gypsum contained about 55 percent SO_4 and 19 percent combined water, or a stoichiometric equivalent 97 percent $CaSO_4 \cdot 2H_2O$.

On the east side of the Little-Hole-in-the-Wall Steptoe, gypsum is exposed in a 150-ft (45-m) sequence of gypsum and gypsiferous rock striking about N. 60° W. and dipping about 20° SW. Evidence of some digging work is vaguely apparent, and a mining claim was reportedly staked here, although abandoned after one or two days work. Two, 1-ft (0.3-m) specimen chips (nos. 6, 7) were taken, one from a 4-ft (1.2-m) gypsum bed at the top and the other from a 5-ft (1.5-m) gypsum bed near the middle of the sequence. Both samples assayed approximately 53 percent SO_4 and 19 percent combined water, for an equivalent 93 percent $CaSO_4 \cdot 2H_2O$.

Past and present mining activity, production data

The closest significant mining activity outside the study area was for fluorspar, mostly during the period 1941 to 1953; the 21 and 27 fluorspar mines are located in secs. 21 and 27, T. 9 N., R. 11 W., respectively, about 1 mi (1.6 km) north of the study area at the southeast end of the Zuni Mountains (fig. 1). Total production from both these properties was 166,146 tons (150,728 t) (Williams, 1966).

There is no known production from within the study area.

MINERAL RESOURCE POTENTIAL

The mineral resource potential of the El Malpais Instant Study Area is low to nil. Known exposures of mineral resources within the boundary of the El Malpais Instant Study Area (fig. 1) are limited to basalt, scoria, gypsum, and coal (fig. 2). The basalt and scoria are not considered a significant resource because of the great quantities of these materials, generally present in this region, that are found outside the boundaries of the study area. The gypsum occurs in lenses generally less than 6 ft (2 m) thick and is usually impure; it is possible that thick, clean beds of gypsum do occur, but they would be of negligible importance compared to the vast deposits of pure, fine-grained, more readily available gypsum elsewhere in the region in the Middle Jurassic Todilto Limestone.

There is some indirect evidence for geothermal energy in the north part of the study area, but the rocks have not been adequately tested by drilling.

The minerals that are known to occur in economic deposits outside the study area include fluorspar, and uranium, but only fluorspar might reasonably be projected to occur in the subsurface inside the study area.

Geothermal energy

The study area lies within an area of anomalously high heat flow (Reiter and others, 1975). Within the anomaly, local hot spots may occur, indirect evidence (Laughlin and West, 1976) for which includes a continuous 3 million year period of intermittent volcanic activity, ending with the McCartys flow about 1,200 years B.P.; a range of tholeiitic to alkalic compositions within short distances in basalt flows, possibly indicating diverse depths and individual conduits; ultramafic inclusions and strontium isotope ratios in basalt, indicating deep origins; alinements of craters, indicating fissure-type eruption; an intersection of the supposed Jemez-Globe lineament trending northeast from Arizona with the Zuni-Sacramento lineament trending northwest from Texas; and ERTS imagery and a negative gravity anomaly, indicating a buried pluton off the southwest flank of the Zuni Mountains.

The only known geothermal test work in the area was the drilling of the four shallow holes for Sunoco Energy Development Co. The company reports that the data collected in these holes was inconclusive.

Fluorspar

In the Precambrian rocks of the Zuni Mountains there are numerous, mined fluorspar veins, and there is a potential for fluorspar also in the Precambrian rocks underlying the study area, but the great depths at which the fluorspar would exist make this potential low.

The depth to the Precambrian is least where the study area is closest to the Zuni Mountain exposures. This is at the north edge of the El Malpais area, on the upthrown side of a fault, west of Bonita Canyon. The Precambrian rocks here probably lie directly beneath the lava flows, the thickness of which is not known, but may be on the order of 150 ft (50 m).

Since the Precambrian is deformed into an elongate domal structure by the Zuni Mountains uplift, it dips away from the crest and its depth increases in all directions into the study area. Fluorite veins in the Precambrian rocks indicate an economic potential for a relatively low-value commodity in the northernmost part of the area, but projected to such a great depth below the surface that any potential value becomes negligible.

Although there is a potential for fluorspar in the Precambrian rocks at depth in the study area, any veins present would be less than 15 ft (4.6 m) thick and would dip at least 70° in comparison with the Zuni Mountain exposures. Extensive drilling exploration would be necessary, and due to depressed prices, foreign competition, and known fluorspar reserves elsewhere, the search would be extremely risky. At a Precambrian dip of perhaps 500 ft per mi (93 m per km) the great depths would be prohibitive to subsurface exploration over all parts of the study area except the extreme north edge of the El Malpais area, bordering the Zuni Mountains. The potential for metallic mineral deposits is considered low.

Uranium

The Upper Jurassic Morrison Formation and Middle Jurassic Todilto Limestone, which are host rocks for the major uranium deposits to the north of the El Malpais area, are not present in the study area; the Todilto pinches out near the northern border of the geologic map, and the Morrison is cut out by pre-Dakota erosion at the northern edge of the map.

Other sediments older than and lying below the Morrison and Todilto that contain minor uranium occurrences in the region are the basal sandstones and conglomerates of the Chinle and the Abo Formations and in the uppermost part of the Entrada Sandstone (Hilpert, 1969). These sediments may occur in the study area, but no anomalous radioactivity or any other indications of uranium were detected in these units in or near the El Malpais area.

The rocks bordering the contact between the Zuni Sandstone and the Dakota Formation are carbonaceous and locally altered and bleached, similar to rocks near uranium deposits, but any potential occurrences would project outside the study area.

Coal

Coal-bearing units in the region are the Gibson and Dilco Coal Members of the Crevasse Canyon Formation and, locally, the Tres Hermanos Member of Mancos Shale. These formations are present in the eastern third of the map area, underlying the basalt on Cebollita Mesa. An unpublished U.S. Geological Survey administrative report by D. E. Ward, W. J. Mapel and W. L. Yesberger describes results of drilling for coal in 1979 on the Acoma Indian Reservation; seven of their drill holes are shown on the accompanying map. Most of the subbituminous coal beds encountered in the drill holes were less than 1 ft (0.3 m) thick and only a few were as much as 2 ft (0.6 m) thick, all in the Dilco Coal Member. Coal beds in outcrops south of Cebollita Mesa appear to be about the same thickness; a few local lenses of highly carbonaceous shale and coal as much as 5 ft (1 1/2 m) thick indicate the possibility of local lenses of minable thickness. Coal-bearing units could not reasonably be projected to underlie the basalt anywhere in the map area.

Other resources

The El Malpais Instant Study Area contains large quantities of volcanic cinders and lava rock suitable for decorative stone; however, similar deposits outside the boundaries of the study area are more readily available.

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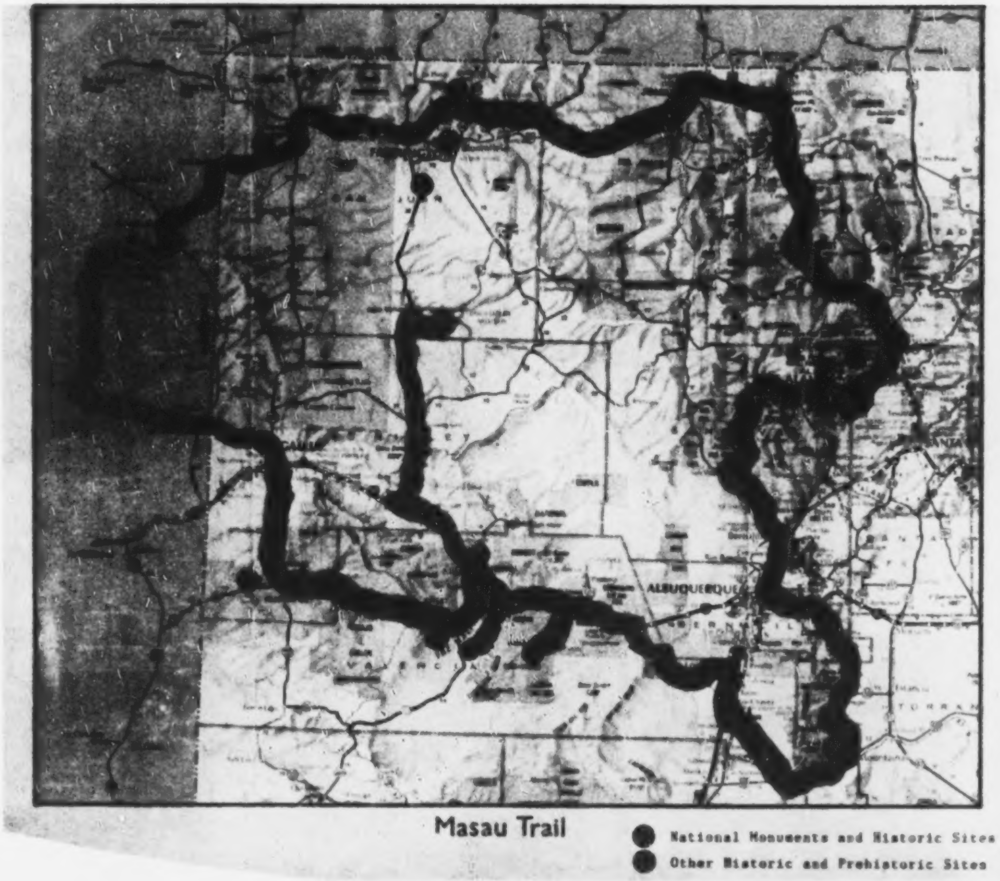
Map of the Masau Trail as Envisioned by One Individual, Bill Wilson, Who Lives in Grants


ALBUQUERQUE
Masau Trail
● National Monuments and Historic Sites
● Other Historic and Prehistoric Sites

Senator BINGAMAN. Go ahead.

Mr. NORTON. Thank you.

The Wilderness Society is delighted with the compromise that was reached during the last days of the 99th Congress to protect El Malpais. That compromise, now, of course, embodied in Senate Bill 56, will create a first class tourist attraction to benefit both the nearby community of Grants and to protect an enduring resource for present and future generations of Americans to enjoy. This bill is a delicate compromise that represents countless hours of negotiation by members of the New Mexico delegation, their staffs, and other interested parties.

As you know, Mr. Chairman, there were two hearings held in the House last year to identify issues and concerns about the bill. That resulted in a number of changes in order to address those concerns. A number of additional improvements were made as the negotiation process ensued. We certainly applaud the entire New Mexico Congressional delegation for working so closely to work together to reach this delicate compromise.

Each time I go to the Malpais I discover something new and interesting about the area. It is not just a couple of lava flows. There are so many interesting things there, the Chain of Craters, the Ice Caves, the lava tubes, some of the richest archeological sites in the southwest, the scenic Sandstone Bluffs, the Natural Arch. The list goes on and on.

Each of these resources stand alone as an interesting feature of the Malpais, but together they represent in my view one of the outstanding conservation opportunities in the entire southwest. We feel that S. 56 does an excellent job of providing lasting protection for this full complement of diverse resource features. We hope and expect that the bill will give the Department of Interior the mandate that it needs to protect this area and appropriately develop interpretive facilities.

Increasingly in New Mexico and other western States resource protection is beneficial rather than detrimental to the economy of local communities. I think that is clearly evident today with the distinguished panel from the Grants area in strong support of this bill. In the case of El Malpais, we strongly feel that resource protection can be fully compatible with the desire of the increased economy in the Grants area.

Fortunately, except for in a few fragile areas, the Malpais is a relatively resilient environment, and it can withstand increased visitation. We certainly support that. Mr. Chairman, I would like to go on record also endorsing the recommended changes that Chuck Wiggins outlined. These, though, are in my view minor refinements, the fine tuning, so to speak, of the bill. Overall it is an excellent concept and we think that these improvements to, for example, exclude some ranch developments from the national monument portion and to consistently place the boundary along 117 will help to make it a much better management situation.

In conclusion, I would like to briefly discuss the Masau Trail portion of the bill. Although it does not protect any land itself, we do strongly support this initiative. It is a good way for the public to learn about New Mexico's very rich cultural history, and we believe that the Federal Government should continue to be involved in this type of activity to help citizens have a better understanding of important natural and cultural resource issues.

That concludes my statement, Mr. Chairman. I would be happy to answer any questions.

[The prepared statement of Mr. Norton follows:]

THE WILDERNESS SOCIETY

STATEMENT OF JAMES W. NORTON, SOUTHWEST REGIONAL DIRECTOR OF THE WILDERNESS SOCIETY BEFORE THE SENATE PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE ON S.56, A BILL TO ESTABLISH EL MALPAIS NATIONAL MONUMENT

WASHINGTON, D.C. FEBRUARY 19, 1987

Mr. Chairman and members of the Subcommittee, I am James Norton, Southwest Regional Director of The Wilderness Society. I am based in Phoenix and cover Arizona, New Mexico and West Texas for The Society. The Wilderness Society is a national conservation organization dedicated to the preservation and wise management of federal lands. On behalf of our 160,000 members I thank you for the opportunity to present this testimony today.

The Wilderness Society is delighted with the compromise that was reached during the waning days of the 99th Congress to protect the spectacular diversity of features at El Malpais. This compromise, now embodied in S.56 and H.R.403, would establish a 253,000 acre National Conservation Area, including approximately 115,000 acres of wilderness administered by the Bureau of Land Management (BLM), and a 126,000 acre National Monument to be administered by the Park Service. It will create a first class tourist attraction to benefit the nearby community of Grants and will protect an enduring resource for present and future generations of Americans to enjoy.

The Malpais bill is a delicate compromise that represents countless hours of negotiation by members of the New Mexico Congressional delegation, Congressional staff and other interested parties. As you may know, Mr. Chairman, the House of Representatives held hearings in Grants, N.M. and Washington D.C. last year that helped to identify issues and concerns that needed to be addressed in legislation to preserve El Malpais. Virtually all of the legitimate concerns raised at these hearings were fairly and equitably addressed as the bill moved through the House last year, and they are now part of S.56. We applaud the entire New Mexico Congressional delegation for working so closely together to reach this delicate balance.

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The lands included in S.56 contain a diverse and spectacular complex of outstanding resources. There is the lava field itself, a unique chain of volcanic craters, ice caves and lava tubes, some of the richest archeological sites in the Southwest, scenic sandstone bluffs, the largest natural arch in New Mexico and several rare plants and animals to name just a few. Each of these resources stand alone as an interesting feature of the Malpais area, but together, they represent one of the outstanding conservation opportunities of the Southwest.

Although I do not claim to be an expert about the many unique and diverse features of the Malpais, I would like to briefly outline some of them here:

Lava Flows - The lava field itself is actually composed of three separate lava flows - Laguna, McCarty's and Zuni Canyon. The McCarty's flow is one of the most recent in the continental U.S. having occurred only 500-1000 years ago. The bulk of these flows are included in the Park Service administered National Monument where they can be interpreted for the viewing public.

Chain of Craters - A chain of approximately thirty volcanic craters dot the landscape along the western edge of the Malpais. This area, which is dominated by the famous Bandera Crater, is a textbook example of volcanic activity and has high scenic and recreational value. This area clearly qualifies for wilderness and will be studied again by the BLM if S.56 becomes law.

Ice Caves and Lava Tubes - Throughout the lava flows, especially the Laguna flow, there are numerous lava tubes where molten rock was carried, as if in a large river system, away from volcanic eruptions. Some of these tubes are greater than fifty feet in diameter and more than ten miles long. In several cases, lava tubes or other volcanic features form year round ice caves, some of which contain interesting stalagmites and other ice structures.

Sandstone Bluffs - The eastern edge of the Malpais lava field is flanked by a beautiful sandstone ridge. This bluff contains the largest natural arch in New Mexico (La Ventana Natural Arch), excellent raptor nesting sites, native American petroglyphs and some of the most spectacular scenery in the region. The bulk of this area will be managed as wilderness by the BLM under S.56.

Archeology - The lava flows, sandstone bluffs and adjacent area contain numerous ruins and countless artifacts. One of the better known sites, known as Las Ventanas or the Candelaria site, is a Chacoan outlier, an old village associated with the ancient Chacoan culture. This site could be developed for visitor interpretation by the Park Service. Present day Highway 117 is thought to roughly follow the old trade route from Chaco Canyon, the center of the Chacoan culture, to Mexico. Many artifacts have also been found in naturally formed compartments throughout the lava field.

Plants and Animals - Many plant and animal species, both rare and common, can be found in the Malpais region. A 1980 wilderness study report identified 156 wildlife species in El Malpais and three plants that are unique in New Mexico. On one of my recent trips to the area, I observed a rare wintering bald eagle in the proposed National Monument south of the sandstone bluffs.

History - The Malpais has an interesting history that today is still evident by a foot trail that is believed to mark the route of the Dominguez-Escalante expedition in 1776 and the ruin of Fort Wingate, an important outpost in the days of Kit Carson located along the west side of the Malpais.

Because of the multitude of resource values found in the Malpais region, especially its unique volcanic features, the National Park Service concluded in a 1968 report at the request of New Mexico's Senators that the area does have "considerable national significance." In a later report, the Park Service found that the area is of "national monument quality".

Congressional protection for the Malpais is not a new idea. Several bills were introduced under the leadership of the late Senator Clinton Anderson in the early 1970's to establish a national monument administered by the Park Service, but for one reason or another, they never became law.

Other forms of protection imposed administratively by the Interior Department are also common in the Malpais area. There are in fact no less than six administrative designations in the area including Outstanding Natural Area, Special Management Area, Instant Study Area, Wilderness Study Area, Natural Environment Area, National Natural Landmark. Unfortunately, these administrative designations have failed to adequately protect the outstanding features of the Malpais area. Extensive vandalism to many of the archeological resources and visitor facilities have occurred because of inadequate patrolling by BLM and the tremendous recreational, scientific and interpretive potential of the area has not been realized. Although this situation has improved somewhat recently, formal Congressional protection with strict management guidelines will help to ensure that the area is properly protected in the future.

The Wilderness Society strongly endorses S.56 to protect the El Malpais region as a national monument and national conservation area including within its boundaries a large amount of wilderness. We feel that this bill can provide lasting protection for the full complement of diverse features found in the region that makes it a truly national recreation, scientific and interpretive area. We hope and expect that the bill will give the Department of Interior the mandate it needs to protect the area and appropriately develop interpretive facilities for visitors.

Increasingly, in New Mexico and across the West, resource protection is beneficial rather than detrimental to the economy of local communities. In the case of El Malpais, we strongly feel that resource protection can be fully compatible with the desire of the Grants community to increase tourist visitation to the area. Fortunately, except for a few fragile areas with unique plants, the El Malpais environment can withstand increased visitation. A healthy increase in tourist visitation may provide a stable and long term boost to the economy in the Grants area while at the same time lasting resource protection is afforded. Quality interpretive programs will also help to educate the public about environmental protection.

It is my understanding, Mr. Chairman, that the New Mexico State Director of the BLM and the Regional Director of the Park Service have agreed that a few minor modifications to the boundary between the national monument and national conservation area in S.56 would help to improve overall management of the resource. In general, these modifications would exclude ranch developments from the Park Service administered portion of the area and place the boundary between the two agencies consistently along Highway 117. Under this scenario, the BLM would continue to manage the prominent La Ventana natural arch, the centerpiece of the Rimrock WSA, and management efficiency would be greatly enhanced. We support these minor changes.

In conclusion, Mr. Chairman, I would like to briefly address the Masau Trail portion of S.56, which forms an automobile touring route linking a number of archeological sites in northwestern New Mexico. Although it does not, in itself, help to protect land or archeological resources, we strongly support the concept as a way to help the public learn about New Mexico's rich cultural history. We believe that the federal government should continue to fund and develop interpretive programs of this sort to help citizens have a better understanding of important the natural and cultural resource issues.

That concludes my written statement, Mr. Chairman. Thank you again for giving me the opportunity to present this testimony today. I would be happy to answer any questions you might have.

Senator BINGAMAN. Thank you very much. Let me just say I do not have questions at this point but we will take these suggestions that are being made in your testimony of all the witnesses, suggestions particularly as to boundary changes, and try to review those very carefully, and where possible try to incorporate those into the bill that is finally reported by the Committee.

Let me just thank all of you for coming. That will be the end of the testimony we hear on S. 56 at this point. I will go ahead and dismiss this panel and ask if the three witnesses who stayed over to talk about the S. 90, if they would go ahead and come up to the table.

Stephen Whitney, Director of the National Parks Program, the Wilderness Society; Paul Pritchard, President of National Parks and Conservation Association; and Roy Cawley, President of the Real Estate Division of Collier Enterprises.

Let me first thank each of you for waiting until the other witnesses had gone. I realize that is an imposition on you, and I appreciate your doing that.

Obviously, to the extent you can summarize your testimony in three or four minutes and submit the balance of it for the record, that would be most appreciated. I think the other members of the subcommittee will have a chance to review it, and the staff will have a chance to review it at that point.

So do we not go ahead with Mr. Whitney first. Please go ahead with whatever you would like to say.

STATEMENT OF STEVEN C. WHITNEY, DIRECTOR, NATIONAL PARKS PROGRAM, THE WILDERNESS SOCIETY

Mr. WHITNEY. Mr. Chairman, thank you very much. I will summarize extensively.

Mr. Chairman, I am Steve Whitney. I am Director of the National Parks Program with the Wilderness Society here in Washington. Today I testify also on behalf of the National Audubon Society, the Sierra Club, the Defenders of Wildlife, the Florida Audubon Society, American Rivers Conservation Council, Friends of the Everglades, Florida Defenders of the Environment, and the Environmental Policy Institute.

Mr. Chairman, the vast expanse of land and water known as the Everglades is a truly unique system. This subtropical natural system in the water that is its life blood originates far to the north of the Big Cypress National Preserve and Everglades National Park.

Unfortunately, while slowly flowing southward, this water is diked, ditched, diverted, drained, contaminated, pumped and consumed at every turn, gravely and fundamentally threatening the natural values of this unique system. Efforts to preserve and restore the integrity of the Everglades must, therefore, focus primarily on bringing additional land and wetland acreage under public ownership and protection. The bill before you today provides a unique and timely opportunity to contribute immediately and substantially to those efforts. We urge the Senate to pass this legislation as swiftly as possible.

These lands proposed for addition under this measure serve as an important habitat for many species of wildlife, game and nongame, endangered and abundant, the harbor alligators and black bear, deer and bald eagles, indigo snakes and Everglades kites, herons, flamingos and the seriously endangered Florida panther. They have the potential to play an important role in providing for recreational opportunity for a growing southern Florida population.

Perhaps most importantly, the addition of these critical environmental lands to the Big Cypress will preserve their role in protecting the natural water regime of the Everglades system that is so important, ecologically and economically, to south Florida.

Mr. Chairman, the measure before this committee today proposes that the purchase of these lands will be accomplished with a unique combination of Federal and State funds on an 80 percent/20 percent in conjunction with the pending replacement of Alligator Alley. We believe the resource values of the affected lands, in combination with this innovative acquisition approach, presents an opportunity which simply should not be missed.

While supporting the expansion of Big Cypress, we urge the subcommittee to make two important changes to Senate Bill 90. First, we recommend that section 4(a) of the bill be amended to delete the words "which shall be promoted and encouraged" in reference to hunting, fishing and trapping. We acknowledge that in the original Big Cypress legislation, Congress expressly permitted these activities in the preserve, and we are not asking the Congress to change that language. We do not oppose hunting and fishing in the preserve, provided that these activities do not conflict with other legitimate recreational uses and provided that these activities do not adversely affect important natural resources or purposes of the unit.

Secondly, we recommend the subcommittee consider an additional boundary adjustment along the western edge of the existing preserve. This additional adjustment would include within the preserve boundary all of the acreage in the Fakahatchee Strip along the western boundary of the unit. Such a change would facilitate efficient management of the preserve by bringing the entire western boundary out to State Road 29.

We are pleased to note for the subcommittee that the bill as introduced makes exactly such an adjustment for that portion of the Fakahatchee Strip from Alligator Alley, Highway 84, south to the Everglades National Park boundary near Everglades City. We fully support the inclusion of this acreage in the Big Cypress National Preserve. We would encourage consideration of a similar adjustment of the western boundary of the preserve to the north of Highway 84.

In summary, the Wilderness Society, along with the aforementioned organizations, supports the expansion of the Big Cypress. The lands to be added are unquestionably critical to the overall Everglades ecosystem protection campaign. While supporting the expansion, we urge that section 4 of S. 90 be amended to delete language requiring the Park Service to promote and encourage hunting, fishing and trapping within the addition.

We also believe that S. 90 should be amended to provide for the addition of the remainder of the Fakahatchee Strip to the west of the existing preserve. The addition of this land will result in the entire western boundary of the preserve being coincident with State Road 29 and will provide for effective and efficient management by the National Park Service.

Mr. Chairman, if it is acceptable to you, I would like to add this little supplement to my State and respond to several points made by Assistant Secretary Horn this morning on a related but different subject.

We agree with Senator Graham that the proposed land exchange, which receive a lot of discussion this morning, may have merit and may ultimately be the best way to acquire about two-thirds of the land referenced by S. 90. We also agree, however, that S. 90 should not be held up in anticipation of the proposed exchange. There are several reasons for this.

First of all, it is important to note that S. 90, the legislation of interest today, does not preclude the proposed land exchange. The implication in the debate this morning was that somehow this legislation would mandate purchase. It does not. It provides for acquisition of the meritorious lands contained within the addition by purchase, donation, exchange, however. More so, interstate land exchange would require the Congress' approval.

We believe the proper sequence is to evaluate the resource, bring the land into the Big Cypress which is worthy, and then determine how to acquire it. If in fact all the parties involved in this proposed land exchange can be satisfied and the deal can be negotiated, then that would be a fine way to acquire the land and would offset some of the LWCF requirements.

Secondly, we believe the exchange remains somewhat speculative even at this date. I have been hearing 60 to 90 days now for over a year on this particular exchange. My intelligence on last week's hearing indicates that the Arizona ranks are still somewhat divided on the merits of this proposal, so we would urge that this legislation, S. 90, move ahead.

Third, Mr. Horn referenced some specific exchange agreement language regarding oil and gas development in the preserve. We believe that this is going to be potentially a sticking point that we hope that Congress will take a good close look at. We understand that the language which I have seen of a draft of that agreement would essentially tie the hands of the Park Service with regard to surface resource management, their primary mandate, and with regard to appropriate regulation of access to and development of oil and gas.

Finally, we believe in the vision of the Land and Water Conservation Fund. We believe in 1965 when the House and the Senate established this fund, it was a farsighted stroke of genius; that is, this country ought to reinvest a small percentage of receipts from nonrenewable resource development and extraction into preserving some of this Nation's natural resources and wildlands for the benefit of generations to come.

Mr. Chairman, the Land and Water Conservation Fund made sense in 1965, and we continue to believe in it. We believe it makes sense now.

So those are four points I just had to make in light of Mr. Horn's remarks, and I appreciate your allowing me to do that.

[The prepared statement of Mr. Whitney follows:]

THE WILDERNESS SOCIETY

TESTIMONY OF STEVEN C. WHITNEY, DIRECTOR, NATIONAL PARKS PROGRAM, THE WILDERNESS SOCIETY, BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, ON S. 90, THE "BIG CYPRESS NATIONAL PRESERVE ADDITION ACT.", FEBRUARY 19, 1987.

Mr. Chairman and members of the Subcommittee, I am Steven C. Whitney, Director, National Parks Program for the The Wilderness Society. The Wilderness Society is a non-profit, membership organization dedicated to the wise management and protection of the federal public lands.

I also serve as coordinator of the Everglades Coalition, a coalition of national and state environmental organizations that have come together to work in a coordinated way for the protection of the Florida Everglades system. I am pleased to have this opportunity to testify on the bill S. 90, to expand the boundaries of the Big Cypress National Preserve in Florida.

The following organizations, all of whom are members of the Everglades coalition, join us in making this statement:

National Audubon Society
Sierra Club
Defenders of Wildlife
Florida Audubon Society
American Rivers Conservation Council
Friends of the Everglades
Florida Defenders of the Environment
Environmental Policy Institute

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Mr. Chairman, the vast expanse of land and water known as the Everglades is a truly unique ecosystem supporting a tremendous diversity of plant and wildlife species. This subtropical natural system, and the water that is its lifeblood, originates far to the north of the Big Cypress National Preserve and Everglades National Park.

Unfortunately, while slowly flowing southward, this water is diked, ditched, diverted, drained, contaminated, pumped and consumed at every turn, gravely and fundamentally threatening the natural values of this unique system. Efforts to preserve and restore the integrity of the Everglades ecosystem must therefore focus primarily on bringing additional land and wetland acreage under public ownership and protection. The bill before you today provides a unique and timely opportunity to contribute immediately and substantially to those efforts. We urge the Senate to pass this legislation as swiftly as possible.

The 136,000 acres proposed for addition to the Big Cypress National Preserve under the provisions of S. 90 are situated literally in the heart of the Everglades system. These lands are ecologically and hydrologically linked to the existing Big Cypress Preserve, to the Fakahatchee State Preserve, and importantly, to Everglades National Park--a national treasure and one of only 8 sites in the world designated both a World Heritage Site and an International Biosphere Reserve.

These lands serve as important habitat for many species of wildlife--game and non-game, endangered and abundant. They harbor alligators and black bear, deer and bald eagles, Indigo snakes and Everglades kites, herons, flamingos and the seriously endangered Florida panther. They have the potential to play an important role in providing for recreational opportunity for a growing southern Florida population. Perhaps most importantly, the addition of these critical environmental lands to the Big Cypress will preserve their role in protecting the natural water regime of the Everglades system that is so important--ecologically and economically--to South Florida.

The measure before this Committee today proposes that the purchase of these lands would be accomplished with a unique combination of federal and state funds, on an 80%/20% basis, in conjunction with the pending replacement of Alligator Alley (State Route 84) with Interstate Highway 75 across the Preserve.

Specifically, the proposal will take advantage of Federal Highway dollars already allocated to the I-75 project for payment of access severance damages. These damage payments, which will be expended in any event, total nearly one-half the cost of acquiring the affected lands outright. The remaining balance of the purchase cost would be subject to the Federal/State acquisition referenced above. We believe the resource values of the affected lands, in combination with this innovative acquisition approach, presents an opportunity which should not be missed. That is, the opportunity for this important boundary expansion to be accomplished at a modest additional cost to the federal government.

We would like to note for the Subcommittee our understanding that the National Park Service will be responsible for administering all land acquisition within the Addition other than that related to the actual highway construction. Such an arrangement is highly desirable in light of the excellent track record of the NPS land acquisition office in southern Florida. The NPS has the knowledge, experience and manpower in place to proceed immediately and efficiently with the acquisition program for the Addition. An amendment authorizing and directing the NPS to administer this acquisition program would serve to clarify this point.

While supporting the expansion of the Big Cypress, we urge this Subcommittee to make two important changes to S. 90.

First, we strongly recommend that Section 4(a) of the bill be amended to delete the words "which shall be promoted and encouraged" in reference to hunting, fishing, and trapping. Section 4(a) of S. 90 would amend the original Big Cypress Act by adding a new Section 10 (b)(5) containing this inappropriate "promote and encourage" language for application to the Addition.

We acknowledge that in the original Big Cypress legislation the Congress expressly permitted these activities in the Preserve, and we are not asking the Congress to change that language. We do not oppose hunting and fishing in the Preserve, provided that these activities do not conflict with other legitimate recreational uses, and provided that these activities do not adversely affect important natural resources or purposes of the NPS unit.

In short, we believe the lands to be added to the Big Cypress should be managed under the same terms and conditions as have guided management of the Preserve for the last 12 years. The NPS should not be asked to manage one portion of the Preserve with one set of rules and the remainder with another. For this reason it is critical that the Subcommittee amend Section 4 of S. 90 to ensure that language regarding administration of the addition conforms to the language in the original legislation on this subject.

Second, we recommend the Subcommittee consider an additional boundary adjustment to the west of the existing Preserve. This additional adjustment would include within the Preserve boundary all of the acreage in the "Fakahatchee Strip" along the western boundary of the unit. Such a change would facilitate efficient management of the Preserve by bringing the entire western boundary out to State Road 29. It would also serve to protect the drainage basin which feeds the western Big Cypress National Preserve and the Fakahatchee Strand from the north.

We are pleased to note that the bill as introduced makes just such an adjustment for that portion of the Fakahatchee Strip from Alligator Alley (Highway 84), south to the Everglades National Park boundary near Everglades City. We fully support the inclusion of this acreage in the Big Cypress National Preserve. We would encourage consideration of a similar adjustment of the western boundary of the Preserve to the north of Highway 84.

The lands to the north of Highway 84, between the present Preserve boundary and SR 29 comprise 3743 acres. Present plans call for these lands to be managed by the Fish and Wildlife Service as a part of the Florida Panther National Wildlife Refuge, the bulk of which lies to the west of SR 29. It would appear more reasonable for the National Park Service to manage all of the lands to the east of SR 29 and north of Highway 84, while the Fish and Wildlife Service manages all of the lands to the west of SR 29 and north of 84. An improved highway is a much more logical and identifiable boundary for managers and users alike, than would be a boundary 1 mile back in the swamp.

In summary, The Wilderness Society, along with the aforementioned organizations, supports the expansion of the Big Cypress National Preserve. The lands to be added are unquestionably critical to the overall Everglades ecosystem protection campaign.

We urge that Section 4 of S. 90 be amended to delete language requiring the NPS to "promote and encourage" hunting, fishing and trapping within the Addition. We do not oppose hunting and fishing in the Big Cypress, but we do not believe the NPS should be required to promote and encourage these activities. We strongly believe that the same language guiding administration of the original Preserve should apply to the Addition as well.

We also believe that S. 90 should be amended to provide for the addition of the remainder of the Fakahatchee Strip to the west of the existing Preserve. The addition of this land will result in the entire western boundary of the Preserve being coincident with State Road 29, and will provide for effective and efficient management by the National Park Service.

Thank you.

Senator Bingaman. Thank you very much.

Mr. Pritchard, go right ahead.

STATEMENT OF PAUL C. PRITCHARD, PRESIDENT, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. Pritchard. Thank you, Mr. Chairman. It is a pleasure to be here with you. If I might, I will submit our full written testimony for the record.

Senator Bingaman. That will be included in the record.

Mr. Pritchard. Let me say we also join Mr. Whitney in the recommendations that he made and in that way help summarize or shorten the testimony that I would submit.

I would just mention that, listening to the discussion this morning and hearing of our discussions about El Malpais, we first were involved in the Big Cypress expansion in 1932, and it has taken that long for us to see the evolution of the bill such as you are seeing here today in terms of the Big Cypress. I certainly hope that we will not have to deal with the same sort of time frame for El Malpais, and we appreciate your leadership in this way.

The important issue that I would like to bring up regarding the Big Cypress National Preserve is the importance of the panther habitat. In many ways, many people see the issue of Big Cypress and the expansion as it relates to Big Cypress itself and to the water regimen which is so crucial to the Eastern Indigo snake and other species, an inextricably related set of natural plants and animals that are just in this area.

Our concern today is that we are faced with the possible extinction of another species, and the responsibility rests on our shoulders, yours, mine, all of us in this room, as we try to preserve another species from becoming extinct. We know of approximately eastern panthers left in this area. Although there has been a great deal of effort by the State and by the National Park Service and by the Fish and Wildlife Service to bring about better knowledge about these species, much more needs to be done. It is critical that we not allow ourselves in this generation to lose another important element.

It is interesting that we were just talking about the children recommending El Malpais, and just a year or so ago the children of Florida asked that the Florida panther be their State symbol. I think it would be a terrible statement on our generation if we found that we had lost that symbol for them.

This area is also important for many other reasons. We talked about the water. We talked about the plants and the animals. We think that the extension that Mr. Whitney mentioned is important and useful, and it was recommended by the Fish and Wildlife Service.

We would also mention that there seems to be a little bit of a misunderstanding on the issue of fishing, hunting and trapping. It is now allowable in the existing Big Cypress National Preserve for fishing and hunting. Trapping is not allowed in the area at this time, nor is it allowed by the State regulations. We would suggest that the existing language in the existing Big Cypress National Preserve be used which does allow for fishing and hunting and that we not in any way include a use which is not now permissible; that is, trapping.

We think that with these additions and changes, we should move forward with great haste no matter what, as we just mentioned, and not dependent on the possible exchange, although we would certainly like to see any reasonable means used to protect this important resource.

Mr. Chairman, I have also in my testimony submitted seven recommendations regarding El Malpais, and the only addition I would make there to complement what Mr. Whitney has said on the Big Cypress, we would add that, unlike the testimony from Mr. Horn, we would encourage the quickest and fastest action so that we do not in fact have to wait another 50 years for another area that deserves protection to be added to the national park system.

Thank you, sir.

[The prepared statement of Mr. Pritchard follows:]

STATEMENT OF PAUL C. PRITCHARD
PRESIDENT
NATIONAL PARKS AND CONSERVATION ASSOCIATION

PRESENTED TO THE SUBCOMMITTEE
ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
U.S. SENATE

FEBRUARY 19, 1987

My name is Paul C. Pritchard. I am President of the National Parks and Conservation Association (NPCA), a private nonprofit membership organization founded 68 years ago to promote the protection, enhancement, and public understanding of the National Park System and related public lands. On behalf of our 60,000 members and contributors, I am pleased to testify in support of both S. 90 and S. 56.

The history of NPCA involvement in the effort to protect the Everglades dates back to 1932. In that year, we contracted with Frederick Law Olmsted Jr. and naturalist William P. Wharton, to travel to Florida and conduct a thorough landscape analysis of the region. The intent of the study was to determine whether this unique natural system should be represented in the growing National Park System. Their enthusiastic report to our Board of Directors concluded that this spectacular area was in fact unique, visually and scientifically, and deserving of our complete support.

The Board accepted those recommendations and we have been fighting for the Everglades ever since. NPCA chaired the Everglades Coalition in the 1970s that led the big fight against the cross-florida barge canal, and for the creation of the Big Cypress National Preserve (BCNP). Most recently, we have been working with the reincarnated Everglades coalition of national environmental organizations all working for the protection of the ecosystem--from the initiative to restore the Kissimmee River and its wetland habitats in the north to protecting water flow to Everglades National Park to the south.

All of the organizations involved in this effort have come to understand that this complex ecosystem is made up of many inextricably linked components. The lands being proposed for addition are one missing piece in the center of the Everglades ecosystem puzzle.

The approximately 135,000 acres proposed for addition to the Big Cypress National Preserve in S. 90 contain a mosaic of plant communities and habitat types. This as yet wild landscape serves as vital sanctuary for a tremendous diversity of wildlife species, including some that are rare or threatened with extinction. The Florida panther is known to range into this area, and the rare Eastern Indigo Snake occupies habitat in the proposed addition.

The fundamental factor influencing the health and integrity of the Everglades ecosystem is water. When we are able to bring under public ownership critical environmental lands in south Florida, we protect the ability of that landscape to absorb rainfall and surface flow and to release it

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gradually at a quantity, rate, and timing that approximates natural conditions. The acreage in question, while adjacent to Big Cypress, is linked hydrologically to Everglades National Park as well. It is no secret that a substantial amount of work is ongoing to ensure natural water flows to this great National Park. The addition of these lands to the Big Cypress will serve to enhance the effectiveness of these efforts.

In short, we believe the resource data alone would justify the addition of this area to the Big Cypress National Preserve. However, these environmental factors, coupled with enhanced recreational opportunity, and protection of water supply for a growing south Florida population, amounts to an open-and-shut case in our opinion.

We are pleased that the Fakahatchee Strip which is located along the western boundary of the existing Preserve, between State Road 29 and the present boundary, is included in S. 90. This area encompasses approximately 15,000 acres in the heart of Florida panther habitat. Inclusion of these lands in the Big Cypress is critical for proper management of the resource and to eliminate the threat of commercial development along the highway. We recommend that the Committee consider including the land in the Fakahatchee Strip north of Route 84 up to the existing Preserve boundary in the lands being added to the Preserve by this legislation.

It is worth noting that the U.S. Fish and Wildlife Service, in its 1985 Environmental Assessment "Fakahatchee Strand: A Florida Panther Habitat Preservation Proposal," called for the fee title acquisition of the Fakahatchee Strip for management by the National Park Service as a part of the Big Cypress National Preserve.

We have one concern that relates to specific language found in Section 4(a). This section specifies that the Secretary shall promulgate rules and regulations to manage and control various allowable activities in the Big Cypress National Preserve, including motorized vehicles, oil and gas exploration, and hunting, fishing and trapping. The language in S. 90 repeats verbatim the language in the BCNP enabling legislation, with one important exception. S. 90 adds after the words "hunting, fishing and trapping," the phrase ".... which shall be promoted and encouraged." We strongly urge the Committee to strike this phrase and to allow the same language which has guided management of the Big Cypress National Preserve for over a decade to apply to the addition as well. Hunting and fishing are allowable activities in the Big Cypress National Preserve today, subject to necessary regulation to protect the Preserve's resources in perpetuity. We favor management of the addition under the same terms and conditions. The phrase "...which shall be promoted and encouraged" does not appear in H.R. 4090 as it passed the House last year, nor in H.R. 184 which was introduced in January. Extensive language related to this issue was included in the House report during the previous Congress.

We would like to clarify for the record, that trapping is presently illegal in the Big Cypress National Preserve under Florida State game management law. Furthermore, the Florida Game and Freshwater Fish Commission informs us that trapping would likewise be illegal in the lands proposed for addition under S. 90. For this reason, we question the perpetuation of trapping language in Section 4(b). Furthermore, trapping is primarily a commercial activity inconsistent with the purposes of the National Park System.

Finally, we would like to commend Senator Chiles and Senator Graham for including a section (Section 6) in S. 90 requiring cooperation among agencies, specifically including the Secretary of Interior. As the Subcommittee may know, there is need to carefully consider the establishment of appropriate rest areas and points of access into the Big Cypress National Preserve along the Interstate 75 corridor. NPCA supports the involvement of the Secretary in this decision process. We believe that these decisions must be based, first and foremost, on natural resource data. The Secretary is in an excellent position to bring this natural resource data to the table. This information can then be used to determine suitable locations for access points, rest areas, and other highway-related features. This data should be used in the design process for these features to ensure that the actual design includes necessary measures to mitigate any adverse environmental impacts associated with their construction.

In summary, NPCA urges this Committee to act favorably on S. 90. We would urge consideration of adding the acreage in the Fakahatchee Strip along the west side of the existing preserve as well. We believe management of the addition should be accomplished under the same rules and conditions as govern management of the existing Big Cypress, and therefore we oppose the "promote and encourage" language in Section 4(a). We support the involvement of the Secretary of Interior in the process of determining the location and design of recreational and mineral access features along the Interstate 75 corridor. These determinations must be primarily based on ability of the resource to support the use. The Secretary can play an important role in the decision process by making necessary resource data available to all of the participating agencies.

Our Association enthusiastically supports S. 56 which proposes establishment of a 126,000-acre El Malpais National Monument, a 253,000-acre Grants National Conservation Area, a number of wilderness areas, and designation of the Masau Trail, a driving tour linking a number of cultural national monuments in Northern New Mexico.

El Malpais has attracted national attention for many years as a scenically, geologically, ecologically, and culturally outstanding area that richly deserves enhanced protection. El Malpais boasts one of the world's most significant, extensive and varied volcanic landscapes--a weird, yet magical place of black contorted, twisted basaltic lava flows, large and extensive lava tubes and tunnels, ice caves, basalt arches, and a dozen large cinder cones--the Chain of Craters rising grandly along a twenty-mile stretch of the Continental divide, from Bandara Crater southward to Cerro Brillante.

The four major surface flows, which at various times ran across the land as red-hot molten lava welling up from deep within the earth, are believed to have occurred from approximately 3,000 years ago to as recently as a mere 500 years ago. These great flows exhibit both the swirled, squeezed, and ropy appearing "pahoehoe" formations and the rough, blocky "aa," names derived from similar lava-flow features in Hawaii.

A fascinating variety of trees and other native vegetation adds an extra aesthetic and scientific dimension to El Malpais. Ponderosa and pinyon pines, Utah and one-seed junipers, quaking aspens, as well as numerous shrubs and wildflowers grow on this rugged land. Picturesquely gnarled and twisted shapes of trees, amid the sculpted rock forms, frequently convey an impression of some extraordinary, vast Oriental garden complete with bonsai trees, flowers, and boulders arranged in endlessly varied and appealing combinations.

Walling in this volcanic expanse to the east rises Cebollita Mesa, a scenic area of buff-colored sandstone formations, canyons, and bold sheer bluffs where New Mexico's largest sandstone arch spans some 200-to-300 feet. From a sandstone overlook, a sweeping panorama of El Malpais spreads out below, while a few miles to the northward rises an ancient volcano, 11,301-foot Mt. Taylor.

Wildlife adds to the wonder of this wild land, as well. Mule deer, wild turkeys, bobcats, and coyotes live in some places where water is available: raptors, including golden eagles and prairie falcons, raise their young in crevices along the sandstone bluffs. There is also the great potential for re-introducing bighorn sheep to El Malpais where this species historically lived.

Anthropologists believe that the area around El Malpais may have been occupied by early peoples as far back as 8,000-to-12,000 years ago; and that a large population of pueblo Indians, the Anasazi, inhabited the area from about A.D. 800 to A.D. 1400. Pueblo ruins still exist on lands adjacent to El Malpais, and Indian legends describe a river of fire that flowed over the cultivated lands of their ancestors.

From an educational point of view, El Malpais already considered a major mecca for high school and university field trips. The continuing growth in popularity of El Malpais for education and interpretation, as well as for general visitation and wilderness recreation, is among the compelling reasons why this unique area should have enhanced protection.

We offer a few specific recommendations for improving S. 56:

(1) Regarding the boundaries of the proposed El Malpais National Monument (Sec. 101 (a)), we urge that the easterly boundary be shifted eastward a short distance to the top of the sandstone escarpment, thereby providing full national monument protection for the narrow strip of land lying between Route 117 and the escarpment. We are aware of an alternative proposal that would make Route 117 the eastern boundary of the monument, and we understand that the road could provide a simple, easily definable monument boundary. However, it is important, in our view, that the entire immediate viewshed that includes the narrow strip of land between the road and the escarpment be not only accorded full national monument protection, but that--as a practical matter--the lands on both sides of Route 117 be placed under a single land-management agency--the National Park Service.

(2) We urge that the magnificent Chain-of-Craters located along the Continental Divide be added to Title IV's provision for wilderness designation. This is a highly scenic and geologically significant area that fully qualifies for addition to the National Wilderness Preservation System.

(3) Under Title V. Sec. 502 (a), on line 25, we suggest that the words "and directed" be inserted, so that it will read: "the Secretary is authorized and directed to acquire lands and interests in lands..." Based upon several recent and current efforts to exchange out reserved mineral interests

from other National Park System units and other BLM special management areas, we feel this amendment would help expedite future land and mineral exchanges/purchases in El Malpais National Monument and the Grants National Conservation Area.

(4) Under Title V, Sec. 504, Line 4, as we understand the intent of insuring access for Indian people, "nonexclusive" should be changed to "exclusive" so that the provision applies only to the Indian people.

(5) Regarding the exclusive-use provision (Title V., Sec. 504), we strongly urge that several specific kinds of resource use--that would be contrary to long-standing and fundamental purposes of the national parks and monuments--be specifically prohibited by Congress. We are particularly concerned about hunting and trapping of wildlife and the cutting of trees for lumber or firewood. Not only could such extractive resource activities (if defined by the Secretary of the Interior as among past cultural and religious uses of the monument area) conflict with the basic purposes of the monument "to preserve the scenery, the natural...resources of the monument and to provide for the public...enjoyment of the monument," but such activities could lead to similar weakening of the protection of other national monuments.

(6) Regarding Title VI, we strongly urge that funding for both the national monument and national conservation area be provided as special line-item authorizations for their respective agencies; and, further, that the specific funding not merely be shifted from other NPS and BLM regional, district, or unit authorized programs. We want to be assured that the NPS and BLM are able to perform their respective planning and management tasks well. We want to be assured that the agency staffs will be able to hit-the-ground-running and be able to live up the national and local expectations for these worthy projects.

(7) Regarding Title II--Masau Trail, we suggest that the word "western" on line 10 of Sec. 201, be changed to "northern," since not all the NPS units listed are located in western New Mexico; we suggest that Pecos National Monument be added to the listing (under Sec. 202); and if it was intended that an Arizona national monument, Canyon de Chelly, be included, then Sec. 201, line 10 should be amended to add: "and Arizona."

Mr. Chairman, this concludes NPCA's prepared statement. I will be happy to answer any questions you may have. Thank you.

Senator BINGAMAN. Mr. Cawley with Collier Enterprises is the final witness. Glad to have you here.

STATEMENT OF ROY E. CAWLEY, PRESIDENT, COLLIER ENTERPRISES, REAL ESTATE GROUP, ACCOMPANIED BY LAMAR GABLE, CHIEF EXECUTIVE OFFICER, BARRON COLLIER CO.

Mr. CAWLEY. Mr. Chairman, I am Roy Cawley. I am the President of Collier Enterprises. In attendance today is also a Mr. Lamar Gable, who is the Chief Executive Officer of the Barron Collier Company, and between the two of us we represent the Collier family whose interest in this particular bill represents some 85,000 acres of the 138,000 acres of land. We also represent approximately 82 percent of all the mineral interests that would be impacted by that particular bill.

We certainly support Senator Chiles, Senator Graham and Congressman Lewis' efforts on behalf of the expansion of the Big Cypress and have been involved in that since 1983 when that concept first started to evolve. They have all worked very hard, industriously, along with the conservation community and many other groups who find this to be of major benefit as a national treasure. We certainly applaud those actions and in general agree with the concept that is being proposed under S. 90.

We do have a couple of concerns, however, that we think should be addressed. We believe that S. 90 fundamentally is perhaps the start of the expansion bill and certainly not the completion of it, in that it does not designate how and when the funding for that will occur. We have specific concerns about becoming a long-term inholder, and we have some specific examples in Florida. There was an area which we referred to as the hole in the donut that I think was designated in the 1950s and was finally accomplished in 1973.

So we are concerned that there should be some type of designation as to when and how those compensations are to be made, and perhaps a sunsetting within that bill to provide some time frame under which that would occur would be a responsible vehicle.

We are also involved, as you have heard, with the Phoenix exchange. We have been involved in that for some year and a half now and believe, as Secretary Horn indicated, that it is well within our grasp to have that concept completed in a very short period of time.

I was at the hearings in Arizona on February 13, and I believe it is fair to say that there is a general concurrence that if the Congress determines that the school would be closed that the exchange is a very viable concept. We are working with the mayor of Phoenix, with the Arizona delegation, as well as the Intertribal Council to try and resolve the issues which surround that particular concept.

In terms of the mineral rights which we hold a percentage of, we believe that the intent of the 1974 legislation which created the original Big Cypress Bill was for minerals to be responsibly allowed for that exploration, and we think that process has occurred and that the intense scrutiny that goes in terms of allowing that type of exploration has been responsible and has created what I perceive to be a good partnership in terms of identifying the interests and concerns.

We have, however, seen in recent months, in fact within the last 30 days, where the National Park Service has issued a general management plan with five alternatives, three of which would take out of active exploration significant parts of our mineral ownership. We are concerned about that and believe, therefore, that the language that was in the original 1974 bill should be clarified somewhat to identify just how those minerals can be responsibly explored for. We are not trying to surmount the responsibilities inherent in that act~~ivity but~~ simply would like to have those defined.

We believe that both of these areas can be clarified and defined and that the bill can move forward. We believe that the exchange is imminent and can be resolved within the time frames of the bill.

That is our testimony. We have submitted to you more substantial testimony, and we would answer any questions and appreciate the opportunity.

[The prepared statement of Mr. Cawley follows:]

STATEMENT OF ROY E. CAWLEY
PRESIDENT
COLLIER ENTERPRISES
REAL ESTATE GROUP

HEARINGS BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS
COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE
ON S. 90,
THE BIG CYPRESS NATIONAL
PRESERVE ADDITION ACT

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee to express my views on S. 90. My name is Roy Cawley. I am President of the real estate group of Collier Enterprises, a Naples, Florida partnership. Collier Enterprises is one of two Florida partnerships that manage the assets of the Collier family. The Collier family has maintained extensive land holdings in southwestern Florida, located primarily in Collier County, since the early part of this century. These land holdings are the traditional financial base of the diversified business activities of Collier Enterprises and the Barron Collier Company, which are concentrated in the areas of real estate development, agriculture, natural resource development, and investment.

As you may know, the existing Big Cypress National Preserve is located in Collier County, and most of the lands within the boundaries of the Preserve were acquired from the Collier family. If S. 90 becomes law, the Federal government will be authorized to acquire an additional 136,000 acres of surface lands, about 85,000 acres of which are now under Collier ownership. This represents approximately 63% of the total lands necessary to complete Federal acquisition of the proposed Addition to the Big Cypress National Preserve. Because Collier lands have road access to the major highways in the area their holdings comprise an even greater proportion (probably about 80%) of the total value of lands to be acquired for the proposed Big Cypress Addition.

Over the past few years, as the Big Cypress Addition bill has evolved, the Collier Companies have given their unqualified support to the efforts of Senator Chiles, Senator Graham, Congressman Lewis and others to expand Federal ownership of the privately-held lands that lie at the headwaters of the Big Cypress Watershed. We have taken this view, notwithstanding the fact that these lands, which are so valuable to the purposes of environmental conservation, have considerable economic vitality as well. Agricultural development, for example, is moving full force into southwestern Florida, and lands very similar to the proposed Addition lands are now being readied for cultivation, under the purview of extensive Federal and State permitting authorities. As the Committee well knows, the demands for recreational use of these lands is also considerable.

The Collier Companies believe that full economic development of much of their lands can be accomplished within the bounds of careful, environmentally sensitive safeguards. Nevertheless, we understand and support the objective of those who wish to provide ultimate protection for the Everglades and Big Cypress Watershed, in the form of Federal ownership and long-term conservation. We are committed to cooperating with your efforts to find the best way of accomplishing this goal in a fair and expeditious manner.

In our view, enactment of S. 90 is, in general, a very good means of accomplishing this purpose. I am compelled, however, to raise three concerns with the legislation in its present form. While these issues are potentially significant, I believe that all three can be remedied without compromising the purposes of the Act and without materially delaying its enactment.

The first issue concerns the difficulties and potential economic loss to private landowners that can occur if the Congress designates the Addition, but fails to ensure that acquisition of the land will follow soon thereafter. The Committee must recognize that enactment of S. 90 is the beginning, not the end, of accomplishing the Congress' real goal, which is public ownership of the Addition lands. S. 90 only designates the lands to be acquired. After that, the money to pay for the lands must be appropriated, and sales agreements with all the landowners must be negotiated and completed. S. 90 expresses the intent of Congress that the Department should substantially complete the acquisition within five years. But for purchase of the land actually to occur over the next five years, at least $40,000,000 in Federal funds must be appropriated. This is a considerable draw on the Federal purse, even in the bygone days of abundant Federal treasuries. Today, with so many interests competing for more limited Federal funds, and with Administration opposition to purchase of the lands, we believe there is substantial risk that appropriations for the Addition lands will be available, at best, on a piecemeal basis.

Being an inholder in such a circumstance is much like being eternally betrothed. The land is still "ours", but it is promised to someone who has not gotten around to taking it. We have not received a thing in exchange for it, but we certainly cannot use it for anything else. In theory, general property law is supposed to protect an inholder from any loss of use or value while he waits for the Federal government to buy his land. But, as a practical matter, this just does not happen. The designation alone is sufficient to defeat any development or even planning permits, even though the landowner cannot anticipate when monies will be available and acquisition will be completed. And, under the terms of S. 90, five years is an optimistic time frame. Appropriating the full amount and purchasing the land could actually take much longer.

I should emphasize that Collier supports expeditious designation of these lands as part of the Big Cypress National Preserve. And, as long as there exists a meaningful prospect of expeditious Federal acquisition, we do not intend to pursue activities or uses of the land that would be inconsistent with its ultimate preservation. Nevertheless, it is inescapable that enactment of S. 90 shifts the full burden of economic risk to the landowner. We believe, therefore, that Congress has an obligation to give meaningful consideration to solutions that minimize the risks of loss to the affected landowners.

One possible solution would be a "sunset" provision, which would terminate the designation if the United States failed to acquire a significant portion of the land within a specified period of time. Such a provision would be a clear incentive to the government to expedite acquisition and ensure that the government and the landowner share the risk of loss arising from the Federal government's failure to act. We would find a sunset provision to be an acceptable alternative, if the Congress is committed to designating our lands without providing for immediate acquisition.

As the Committee is no doubt aware, Collier has also been actively seeking another solution. It is widely known that for nearly a year Collier has been engaged in intensive discussions with the Department of the Interior -- and a host of other interested parties -- concerning an exchange of Federal lands for all of the Collier family holdings within the proposed Big Cypress Addition. In addition to conveying the Collier property within the Big Cypress Addition, Collier would convey an additional 30,000 acres of lands long sought by the United States Fish and Wildlife Service to add to the National Wildlife Refuge System. This includes the Ten Thousand Islands area, an especially rich habitat for manatee, mangrove, and aquatic life in the coastal waters of southwest Florida.

Collier would also convey lands north of State Route 84 and west of State Route 29, enabling the Fish and Wildlife Service to complete acquisition of all lands necessary for protection of the endangered Florida Panther within the Florida Panther National Wildlife Refuge.

In exchange, Collier would gain title to 105 acres of real property located on the site of the Bureau of Indian Affairs Boarding School in Phoenix, Arizona. Current appraisals and estimates indicate that the value of the lands ultimately to be conveyed to the United States would be equal to one-half of the $100 million estimated value of the Phoenix Indian School property. The exchange agreement would therefore require Collier to make a cash equalization payment of approximately $50 million. Congress will ultimately determine the appropriate use of the funds generated by the exchange, although there appears to be considerable support for the view that much or all of this money will be made available for the purposes of Indian education and adolescent care within the Arizona Indian communities that traditionally have been served by the school.

I am fully confident that when this arrangement is finalized and Congress has an opportunity to review it, you will share our enthusiasm for this unique proposal. The list of public benefits that would derive from the exchange is impressive. The purpose of S. 90, to protect the Everglades and Big Cypress Watershed, can be accomplished and at the same time a large portion of the lands can be acquired, without the need for Federal appropriations. Also without appropriating additional funds, the Florida Panther National Wildlife Refuge can be completed and an additional Refuge in the Ten Thousand Islands area will be created. And, if Congress so determines, a significant fund can be created from the proceeds of the exchange for the benefit of Arizona Indians.

I recognize that some aspects of the exchange may appear complicated and perhaps even a little mysterious to those who have not been involved in its development. I would be pleased to answer the Committee's questions about the details of this Agreement, if that would be useful. But I want first to address what I believe is probably the question at the forefront of everyone's mind: Are the many pieces of the land exchange really falling into place?

The answer is, unquestionably, yes. Earlier this week, the DOI and Collier resolved all outstanding substantive differences over the terms of the Agreement. All that remains is to secure the Secretary's final approval and complete the DOI's administrative documentation -- a process which I understand can be completed in a few weeks.

More importantly, there is a great momentum in support of the exchange in Arizona. As everyone recognizes, the exchange cannot go forward unless local Arizona interests are satisfied that the exchange is a good idea, and good for Arizona. The growing support for the exchange in Phoenix became quite evident last week, when most interested persons appeared before the House Interior and Insular Affairs Committee to participate in that Committee's field hearings on the future of the Phoenix Indian School. At those hearings, the Inter Tribal Council of Arizona (ITCA) announced its intention to support legislation that would accommodate the land exchange, if certain conditions can be met. The most important condition is that the ITCA and DOI will be able to reach agreement soon on the best means for providing for the educational and adolescent care needs of the Arizona Indian community if the school is closed. We agree that this condition must be satisfied. I understand that the Arizona delegation and Indian leaders are pressing quickly toward that end, and that the proposed land exchange is likely to present the most feasible solution to the problem: the exchange can make as much as $50 million available to pay for the educational and adolescent care facilities or programs required by the Indian students. Indeed, the exchange is the only proposal that permits the local Indian communities to share directly and substantially in the benefits derived from closing the school.

Similarly, Mayor Goddard of Phoenix has advised the House Interior Committee of his interest in both meeting the needs of the Indian communities and for working with Collier to devise a creative plan for use of the property, if the school is closed and the exchange occurs. We very much appreciate his statements before the House Committee last week. I am also pleased to report that Collier is now working closely and cooperatively with Mayor Goddard and his staff. We expect very soon to have established a framework for development of the Indian School property that meets the city's land use objectives and ensures that development will be environmentally sound and economically productive for investors and the community alike.

In sum, we believe that all the elements necessary to ensure the support of all interested parties for the exchange are within reach and are likely to fall into place in short order. I would, therefore, respectfully ask this Committee to delay for a brief period of time the markup of this legislation, until the Congress has had an opportunity to review the proposed land exchange agreement. I am hopeful that the land exchange will meet with widespread approval, and that at that point Congress will be in a position both to designate the Addition lands and to provide for acquisition of substantial portions of the lands at the same time.

The second of our concerns with S. 90 has to do with the provisions of the bill that establish the DOI's authority over minerals development in the Addition. Like the original Big Cypress establishment act, S. 90 does not generally authorize acquisition of the substantial oil and gas rights that lie beneath the surface of the proposed Addition. Instead, the intent of S. 90 is for the United States to acquire only the surface estate, reserving the minerals estate to Collier and other present landowners.

Under S. 90 the Park Service would be given broad and general authority to impose regulations governing access and use of the surface for purposes of developing this privately-owned minerals resource. These authorities are identical to those granted to the Park Service for administering the existing Preserve. As a matter of law, the mineral owners have a legal right to access across the surface lands within the Preserve for purposes of developing the reserved oil and gas interests. As a consequence the Park Service may not use its authority to defeat mineral access, no matter how broadly these administrative powers are defined.

For several years the original Big Cypress legislation worked. Collier and the Park Service worked cooperatively to establish minerals exploration and development programs that meet the most exacting environmental requirements for our operations within the Preserve. Although the procedures have been complicated and expensive to develop and implement, the result has been a sophisticated and environmentally sound production operation at Raccoon Point. These operations have successfully demonstrated that a cooperative permitting regime can accomplish exactly what Congress intended in the original Big Cypress Act. Oil and gas development can occur without defeating the purpose of environmental conservation. And, the federal government can protect these valuable lands without paying the enormous price that the purchase of the oil and gas rights would command.

Unfortunately, our recent experience makes clear that the painstaking efforts at Raccoon Point are not enough to earn us continued cooperation in our efforts to develop our privately-owned mineral interests in a responsible manner. Over the last year, the Park Service has unreasonably delayed consideration of a permit to explore Collier oil and gas interests beneath the existing Preserve. Last month the Park Service announced that it was evaluating alternatives for a general management plan. Three of the five published alternatives would permanently foreclose development in large portions of the Preserve. If any one of these alternatives is adopted, the result would be effectively to condemn an exceedingly valuable privately-owned property right.

I believe that this is not the result that Congress intended in 1974, when it assured private landowners that the Congress intended to protect their ability to enjoy the use of their reserved mineral interests beneath the Preserve. The legislative history makes clear that Congress did not intend to condemn the mineral interests beneath the Preserve, and that it believed that oil and gas development could proceed within the Preserve, consistent with the conservation objectives for which the Preserve was created.

What is obvious is that the language of the 1974 Act is not adequate to protect mineral rights beneath the existing Preserve. The Committee, I hope, will then understand why I am very, very reluctant to expose even more of Collier's valuable oil and gas interests to the same regulatory situation that has proved so frustrating and that, as a practical matter, remains unsolved.

I believe that, in enacting S. 90, the Congress must face this issue forthrightly. The value of the mineral interests beneath the Addition have not been reliably estimated. The State of Florida, however, expects that these reserves could be worth more than $1 billion. If the Congress concludes that no development of these reserves should occur, it could attempt to buy them. But we believe that it is financially unrealistic and, given the prospects for environmentally sound development, wholly unnecessary. Assuming that buying the oil and gas reserves is not necessary or realistic, we believe Congress must offer mineral interest owners strengthened, and legally enforceable, reassurances that reasonable development of privately-owned resources will be permitted to go forward.

We have argued the same position in our discussions with the Department of the Interior officials in connection with the development of the land exchange. Our objective is not to escape scrutiny of oil and gas development, but to define the Department's authority specifically enough to ensure that that authority is not misused to preclude any responsible development of the privately-owned mineral rights. As a consequence, we have agreed to include in the agreement oil and gas exploration and development stipulations that impose high environmental standards but nevertheless ensure that, once these standards are met, the Park Service cannot use an open-ended permitting process to foreclose development completely.

In the event that the Congress chooses to move forward on S. 90 without first considering the land exchange agreement and the solution it offers to the subsurface development problems, we must ask the Committee to consider very carefully other possible alternatives to solve this problem. We are prepared to work with the Congress in devising a reasonable solution. However, we must emphasize our view that the Congress should not enact this legislation without in some manner clarifying its intent, and providing private mineral owners with a means for enforcing their rights against regulatory actions that would effectively appropriate valuable oil and gas resources, without providing adequate compensation for doing so.

Our third concern with S. 90 involves a question with respect to the effect of the legislation on access for private mineral owners to their reserved oil, gas and mineral interests beneath Addition lands. Section 6 of S. 90 creates a limitation on the establishment of recreational access points, and has been broadened from the language appearing in previous versions of S. 90 to impose the same limitation on oil, gas and mineral access points. The effect of this change is quite significant. The State of Florida in cooperation with the Federal Highway Administration has offered Collier specific private access points which are to be permitted for the use of mineral owners along Interstate Highway 75. The establishment of these access points is to occur in connection with the severance of pre-existing access points along Alligator Alley resulting from the I-75 construction.

It has been our historic understanding from the sponsors of this legislation that this bill would not in any manner alter the commitment made by the State of Florida and Federal agencies to Collier with respect to these access points. We would hope that the Committee could correct this problem by deleting any reference to oil, gas, and mineral access points in the legislation. Also, to avoid any future confusion over this matter, we believe it is essential that the legislative history contains some expression of the intent of Congress that oil, gas and mineral access should be governed by the agreements among private parties and Federal and state agencies developed in connection with the Interstate 75 construction.

Mr. Chairman, I thank you very much for the opportunity to appear before the Committee. I want to emphasize again my support for the objectives of S. 90, and my very firm belief that the proposed land exchange will offer a unique opportunity for this Committee to realize these objectives and accomplish a number of other important public benefits as well. We look forward to the opportunity to work with this Committee and other Members of Congress in accomplishing those goals.

I would be pleased to answer any questions.

Senator **Bingaman**. Thank you all very much, and we will include in the record whatever statements any of you have. I appreciate your waiting so long to give your testimony.

That concludes the hearing.

[Whereupon, at 1:11 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Committee Questions

J. BENNETT JOHNSTON, LOUISIANA, CHAIRMAN

DALE BUMPERS, ARKANSAS
WENDELL H. FORD, KENTUCKY
HOWARD M. METZENBAUM, OHIO
JOHN MELCHER, MONTANA
BILL BRADLEY, NEW JERSEY
JEFF BINGAMAN, NEW MEXICO
TIMOTHY E. WIRTH, COLORADO
WYCHE FOWLER, JR., GEORGIA
KENT CONRAD, NORTH DAKOTA

JAMES A. McCLURE, IDAHO
MARK O. HATFIELD, OREGON
LOWELL P. WEICKER, JR., CONNECTICUT
PETE V. DOMENICI, NEW MEXICO
MALCOLM WALLOP, WYOMING
FRANK H. MURKOWSKI, ALASKA
DON NICKLES, OKLAHOMA
CHIC HECHT, NEVADA
DANIEL J. EVANS, WASHINGTON

DARYL H. OWEN, STAFF DIRECTOR
D. MICHAEL HARVEY, CHIEF COUNSEL
FRANK M. CUSHING, STAFF DIRECTOR FOR THE MINORITY
GARY G. ELLSWORTH, CHIEF COUNSEL FOR THE MINORITY

United States Senate
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510

February 27, 1987

Honorable William P. Horn
Assistant Secretary for Fish and
Wildlife and Parks
United States Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

Thank you for your testimony on February 19, 1987, on S. 56 and S. 90. I have enclosed questions to be answered in writing for inclusion in the hearing record. Please submit your answers to these questions to us by Friday, March 13, 1987.

Sincerely,

Dale Bumpers

Dale Bumpers

DB/dmn

Enclosures

QUESTIONS FOR BILL HORN

1. Does the National Park Service feel that the lands to be added to the Preserve in S. 90 are ecologically and hydrologically linked to the existing Preserve, the Fakahatcher State Preserve, and Everglades National Park?

2. What has been the nature and extent of oil and gas exploration and development activity in the existing Preserve since 1974? Under what set of negotiations does this activity take place?

3. What is the NPS's view of the language in Section 4 of S. 90 stating that hunting, fishing, and trapping "shall be promoted and encouraged" in the Addition? What is the present status of trapping in the Preserve?

4. In the event that S. 90 is enacted, is it your view that the Addition should be managed like the existing Preserve? If you believe that different management is desirable, please specify the changes you would suggest?

5. Some have suggested that Florida SR29 would be a more appropriate western boundary for a portion of the present Preserve rather than have the FWS administer these lands as part of the proposed Florida Panther National Wildlife Refuge. Do you share this view?

6. It is my understanding that El Malpais, West Malpais and Chain of Craters are within one of the 55 BLM areas identified in FLPMA for "instant" wilderness study, with a reporting date of July 1, 1980. The study process for these areas began in 1981, at which time BLM published a draft EIS, held public hearings and collected public comment. A final EIS has not been issued, nor has a recommendation been sent to the President or to Congress regarding this area. Can you explain why there has been a seven year delay in submitting the recommendations for these areas, as required by Section 603 of FLPMA?

7. Last Congress, the Administration testified before the House Public Lands Subcommittee that there had been an administrative decision not to submit the recommendations for "Instant Study Areas" by 1980 as required by law, in order to package these recommendations with the Statewide EIS. The revised EIS was issued in September 1986, without any reference to these three areas. Can you explain this omission? Can you also provide for the Committee a list of Instant Study Areas for which recommendations have been submitted to Congress?

8. The four WSA's east of highway 117 were recommended for wilderness designation in the September 1986 revised Statewide EIS. This document did not indicate that there were significant mineral conflicts in these areas. What is the source of the new mineral information regarding these areas which were referenced in your testimony? Please elaborate on the nature of this new mineral data. Can you describe the exact nature of additional

mineral studies that the administration intends to conduct on these areas? When will these studies be completed? What will be the cost of completing these studies?

Would these studies be significantly different in nature than the USGS and Bureau of Mines Wilderness mineral survey (open file report #81-557 January 15, 1982)? It is my understanding that this study also concluded that the El Malpais complex, including the four WSA's, had low to nil mineral resource potential. Is this not correct?

9. The Rio Puerco Final Resource Management Plan (November 1986) also recommended Wilderness designation for the El Malpais Instant Study Area and the Four WSA's. In light of this additioal final recommendation, how can these areas be considered premature for consideration by Congress?

10. For the El Malpais land area covered by S. 56, please provide the Committee with acreage data on current ownership of surface and mineral estate.

11. As I understand it, the BLM's Rio Puerco Final Resource Management Plan designated the El Malpais area as a "special management area." Is it not true that as a result, the El Malpais area is therefore a top priority for acquisition (through exchange) of all surface and mineral estate currently in State or private ownership?

12. How much surface and mineral estate acreage in the El Malpais complex has already been acquired through exchange with State or private owners?

13. What is the status of the BLM's current efforts to acquire the remaining non-Federal surface and mineral estate in El Malpais?

14. Since the Rio Puerco land use plan already provides for acquisition of non-Federal surface and mineral estate, how is it that S. 56 would increase the burden of costs? Does the Bureau intend to ignore the plan's acquisition provisions for El Malpais?

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI FOR THE DEPARTMENT OF THE INTERIOR

1. Last year, the Bureau of Land Management estimated that it would cost $2 million to exchange out the 68,330 acres of private land in the 351,000-acre National Monument which was under consideration. At that time, the Bureau of Land Management expected that the majority of private land could be acquired through exchanges.

   a. How many acres of private surface and subsurface estate is contained within the 126,000-acre National Monument currently under consideration?

   b. What would it cost to exchange out those lands?

   c. Private lands within the National Conservation Area would not need to be acquired. How many acres of private surface and subsurface estate is contained within the 253,000-acre National Conservation Area?

   d. How many acres of private subsurface estate is contained within the boundaries of the areas proposed to be designated as wilderness by this bill?

   e. How many acres of private subsurface estate is contained within the Chain of Craters wilderness study unit?

2. The Bureau of Land Management has received at least six land exchange proposals in the Malpais area. These land exchanges would help consolidate the public ownership of El Malpais at a minimal cost.

   a. How many land exchange proposals currently are pending in El Malpais?

   b. What is the status of these proposals?

3. Concern has been expressed that the proposed boundary between the National Monument and the National Conservation Area on the east side of El Malpais would create management problems. It has been suggested that this boundary be shifted either east or west of its current proposed location.

   a. Should the boundary be adjusted so that all lands east of State Road 117 would be in the National Conservation Area and all lands west of the road would be in the National Monument?

   b. Alternatively, should the boundary be adjusted so that the eastern boundary of the National Monument would be located along the top of Cebollita Mesa?

   c. Would either boundary adjustment detract from the resource values of the National Monument?

4. The Pueblo of Acoma has requested that the federal lands which the Pueblo leases for grazing purposes in the Berry Hill and Bar 15 (or Carl Wilson) ranches be placed in trust and reserved for the exclusive use of the Pueblo of Acoma.

   a. Does the Department support this request?

5. Concern has been expressed about the future of grazing in the National Conservation Area and the wilderness units proposed to be created by this legislation.

   a. What assurances are there that grazing would be permitted to continue at current levels in the National Conservation Area?

   b. Is it necessary to include specific language mandating that grazing be allowed to continue at current levels in the National Conservation Area?

   c. What assurances are there that grazing would be permitted to continue at current levels in the wilderness units that this bill would create?

   d. Is it necessary to include specific language mandating that grazing be allowed to continue at current levels in the wilderness units?

6. Some allotees will lose a portion of their grazing allotments under this bill.

   a. What provisions will the Department make to provide these individuals with alternative grazing lands?

   b. Is it necessary to include specific language in the bill mandating the exchange of grazing allotments?

7. I have been informed that allotee Raney has ranch improvements, prime grazing land, water wells, and a family graveyard on portions of Section 28 of T6N, R11W which would be within the National Monument boundary.

   Inclusion of the improvements within the National Monument boundary will severely impair his ability to conduct ranching operations in the future.

   a. Would redrawing the boundary line to place all of Section 28 within the National Conservation Area rather than the National Monument severely adversely impact the quality of the National Monument?

8. I have also learned that allotee Majors, who controls a grazing allotment on the west side of El Malpais, owns 120 acres of deeded land, a ranch headquarters, and a water well on Section 30 of T8N, R12W, which would be within the National Monument boundary.

   Inclusion of these features within the National Monument would damage the ranch as an operating unit.

   a. Would redrawing the boundary to remove this area from the National Monument and place it within the National Conservation Area severely adversely impact the quality of the National Monument?

9. In 1981, the Bureau of Land Management completed the Draft Environmental Impact Statement and wilderness study report on the El Malpais Instant Study Area. The study indicated that the Chain of Craters unit was unsuitable for wilderness designation.

   No final Environmental Impact Statement was ever issued and no recommendation regarding the El Malpais Instant Study Area was made to Congress. Since the completion of the Draft Environmental Impact Statement, some individuals have stated their belief that changing circumstances have made the Chain of Craters Unit suitable for wilderness.

   a. Does the Department now believe the Chain of Craters to be suitable for wilderness designation?

10. This bill will designate approximately 115,000 acres as wilderness and will study additional areas within the National Monument and the National Conservation Area for designation as wilderness. This will result in a comprehensive wilderness designation for the area.

    After the designation of these areas of wilderness, there will be a number of small, isolated tracts which are under wilderness study designation that will not be designated as wilderness.

    a. How much would it cost to continue to manage the wilderness study areas in the Malpais area which would not be designated as wilderness under this bill?

    b. In order to complete the comprehensive wilderness review of the area, would you favor removing the wilderness study designation from lands in the area which are not designated as wilderness?

11. The legislation currently calls for two separate management plans for El Malpais, one for the Park Service and one for the Bureau of Land Management.

    a. Would it be more cost-effective for a single management plan, incorporating both the Park Service and Bureau of Land Management units, to be developed?

    b. What would be the cost of such a plan?

    c. How does this compare with the cost of developing two separate plans?

12. I have been informed that the military used a portion of El Malpais as a bombing range during World War II. There appears that some unexploded bombs remain hidden in the lava flows.

    a. What portions of El Malpais were used as a bombing range?

    b. How much unexploded ordnance is estimated to remain in the area?

    c. What program will the Department undertake to remove these unexploded bombs?

13. It has been suggested that the name of the National Conservation Area be changed from the "Grants National Conservation Area" to the "El Malpais National Conservation Area."

    a. Would the Department support such a change?

14. The Department of Fish and Game of the State of New Mexico has considered reintroducing native Mexican bighorn sheep into the El Malpais area. Concern has been expressed that National Monument designation of this area will hamper or preclude the Fish and Game Department's ability to carry out such projects in the area with sportsmen's dollars because of management guidelines of the National Park Service.

    a. What special arrangements can be made between the National Park Service and the New Mexico Fish and Game Department to give the Fish and Game Department the flexibility to manage wildlife resources in the El Malpais area?

15. How soon would the Masau Trail become operational?

16. How many visitors do you estimate would visit the Masau Trail?

17. How many persons currently visit each of the individual National Park Service units proposed to be included in the Trail?

18. Under the bill as currently drafted, the Masau Trail includes only National Park Service sites. The Bureau of Land Management administers a number of historic and prehistoric sites in the area, such as the Ditterd Site, Guadalupe Ruin, Casamero Site Chacoan Outlier, Pierre's Site Chacoan Outlier, Hooded Fireplace Navajo Refuge Site, and Simon Canyon Navajo Refuge Site.

    a. Taking into account the visitor quality of these sites, their accessibility, and the potential for adverse impacts resulting from increased visitor use, should these sites be included in the Masau Trail at its inception?

19. Are there any other sites that the Department feels should be included in the Masau Trail at its inception?

20. Route 66 used to be the major east-west highway in the Nation. Much of the twentieth century migration to the southwest and California was carried by Route 66. Additionally, Route 66 had a great impact on tourism by making vast areas of the country accessible by automobile. Route 66 also opened a window for Americans to become exposed to the Indian and Hispanic cultures of the southwest. In sum, Route 66 played a significant role in American cultural history.

    I believe the Department should study the possibility of preserving a section of Route 66 for future generations.

    a. If such a study were undertaken, what should the parameters and the mandate of the study be?

    b. How much would such a study cost?

    c. Could this study be undertaken as part of the planning process for the Masau Trail?

Questions/Comments submitted for Assistant Secretary Horn by Senator Bob Graham

1. During several discussions and meetings among our staffs, it was clearly stated by Senator Chiles' assistant and my assistant that the limitation to three access points for oil and gas exploration and development was a drafting oversight in the bill. Assurances were given to your staff that the bill would be amended in Subcommittee to include the additional access points. With that knowledge, how can you justify misleading the Subcommittee with the your emotional argument of additional Federal liability imposed as a result of limited access points?

2. In referring to the proposed land exchange between the Department of Interior and the Collier's, you state that the exchange agreement would contain environmental protection standards for oil and gas exploration and development "substantially similar" to those presently in force within the existing Big Cypress Preserve. For what reasons do you believe that these protection standards should not be "identical" to those in place for the existing Preserve?

3. a. You also state in your testimony that the State of Florida's share of acquisition costs under the formula in S. 90 would be about $20 million. In this figure, are you including the State's ten percent share of the severance damages for property along Alligator Alley?

b. Additionally, you state that Florida has already appropriated that amount ($20 million). In an effort to clarify, the State has available $16.5 million in funds with which to acquire several tracts of land to carry out our "Save Our Everglades" program. The original $22.5 million that the State has set aside has been decreasing gradually as the State begins to acquire property as assessments and acquistions are made along Alligator Alley.

As a point of further clarification, I would like to share with you the estimates the State has put together for the acquisition of the 136,000 acres under S. 90:

total est. land value		$102.2 million
highway severance funds		$ 43.8 million
80/20 federal/state funding		
	state	$ 11.7 million
	federal	$ 46.7 million

4. You state in the beginning and at the end of your testimony that S.90 should be amended to provide for implementation of your

exchange proposal. I would like to emphasize here that S. 90 does not preclude any land exchange as a means of acquisition. The bill would merely authorize designation as a Preserve and acquisition of the 136,000 acres. Nowhere in the bill does it specify how the land is to be acquired. Therefore, S. 90 already provides for your exchange proposal; it would only be necessary for you to draft supplemental legislation to authorize the exchange itself.

Questions Submitted by Senator Malcolm Wallop

for William P. Horn

S. 90, Big Cypress

1. Please submit the exchange agreement being proposed by the Department of the Interior.
2. What was the total land acquisition cost for the Big Cypress Preserve as of this date?

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 20 1987

Honorable Dale Bumpers
Chairman, Subcommittee on Public
  Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On February 19, 1987, your subcommittee held hearings on S. 56, El Malpais, and S. 90, Big Cypress. Additional questions on these issues were sent in your letter of February 27, 1987.

Our answers to the questions submitted by you and Senators Domenici, Graham and Wallop are enclosed.

If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

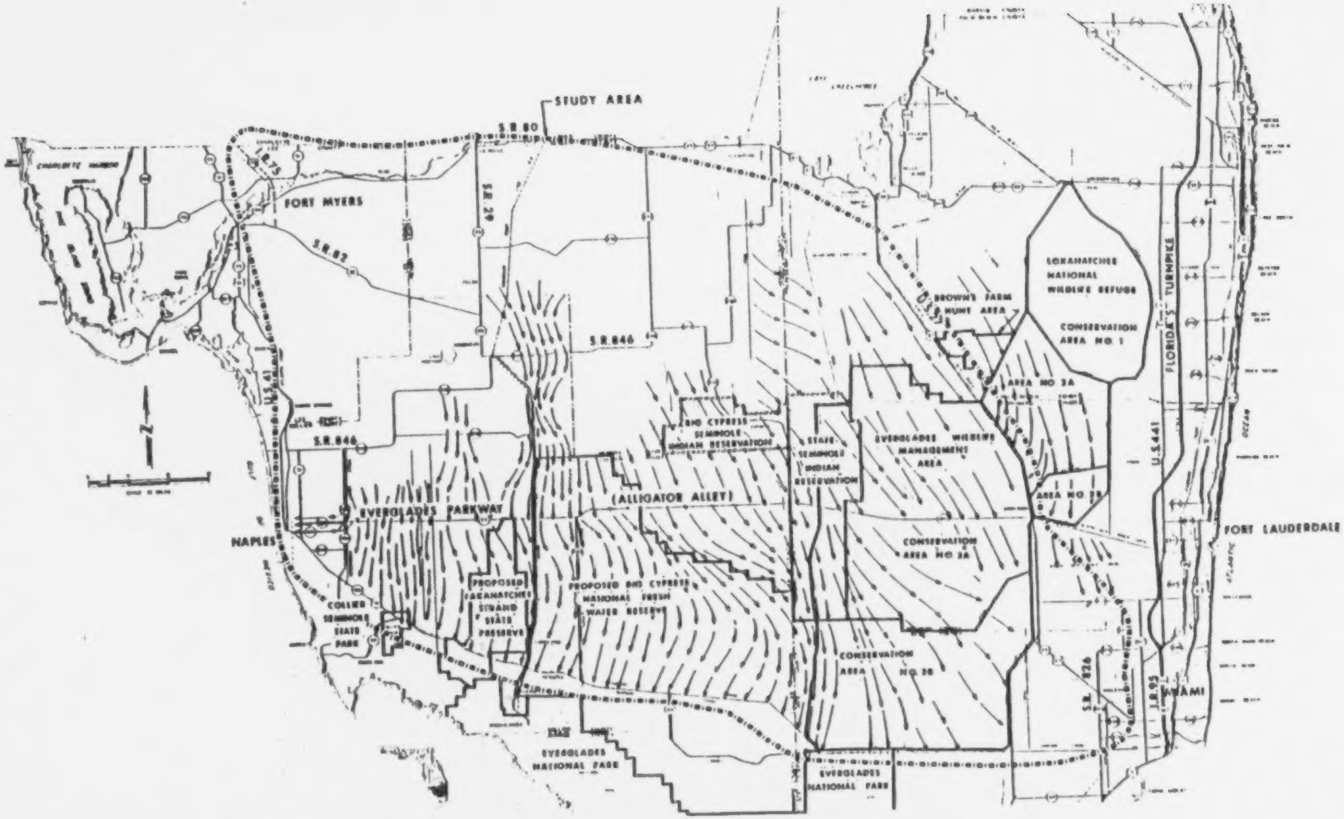
William P. Horn
Assistant Secretary for Fish
and Wildlife and Parks

Enclosure

Questions Submitted by Senator Dale Bumpers for William P. Horn

Question 1. Does the National Park Service feel that the lands to be added to the Preserve in S. 90 are ecologically and hydrologically linked to the existing Preserve, the Fakahatcher(sic) State Preserve, and Everglades National Park?

Response: There is no question that all of the undeveloped lands in southern Collier County are ecologically linked, supporting similar communities of plants and wildlife. The hydrology is more complicated, as the attached chart indicates. Water from the proposed northern addition to the Preserve flows in a southeasterly direction, with most of the water going from the proposed Addition to State Water Conservation Area 3B, and then into Everglades National Park. Water from the westernmost portions of the proposed northern addition flows through the eastern portions of the Preserve and then into the Park. As the second chart shows more clearly, there is no water flow from any of the lands proposed for addition to the Preserve on the west into the Fakahatchee Strand. This is largely due to the canal adjoining State Route 29.

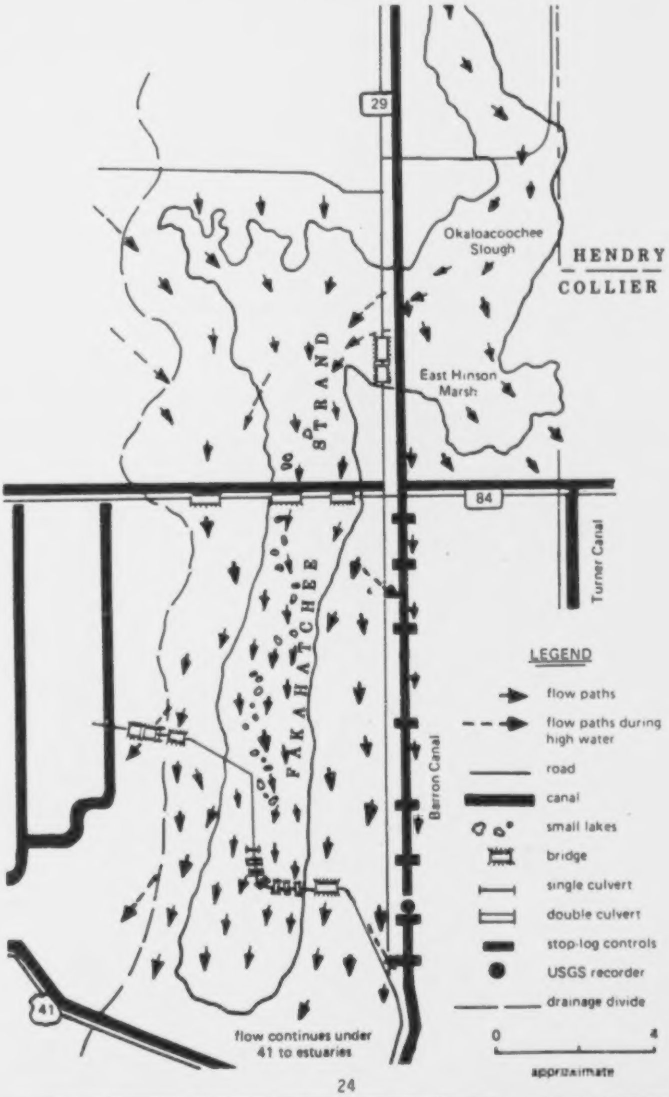

STUDY AREA
S.R. 80
CHARLOTTE HARBOR
I.75
FORT MYERS
S.R. 82
S.R. 29
S.R. 846
U.S. 41
S.R. 846
GULF
MEXICO
NAPLES
EVERGLADES PARKWAY
(ALLIGATOR ALLEY)
BIG CYPRESS SEMINOLE INDIAN RESERVATION
STATE SEMINOLE INDIAN RESERVATION
EVERGLADES WILDLIFE MANAGEMENT AREA
BROWN'S FARM HUNT AREA
LOXAHATCHEE NATIONAL WILDLIFE REFUGE
CONSERVATION AREA NO. 1
AREA NO 2A
AREA NO 2B
CONSERVATION AREA NO 3A
CONSERVATION AREA NO 3B
COLLIER SEMINOLE STATE PARK
PROPOSED FAKAHATCHEE STRAND STATE PRESERVE
PROPOSED BIG CYPRESS NATIONAL FRESH WATER RESERVE
EVERGLADES NATIONAL PARK
EVERGLADES NATIONAL PARK
U.S. 27
FLORIDA'S TURNPIKE
U.S. 441
FORT LAUDERDALE
ATLANTIC
OCEAN
S.R. 826
I.R. 95
MIAMI
N

BIG CYPRESS AND EVERGLADES WATERSHEDS

Figure 1

FIGURE 2

WATER FLOW THROUGH THE FAKAHATCHEE STRAND STUDY AREA


29
Okaloacoochee Slough
HENDRY
COLLIER
East Hinson Marsh
STRAND
84
Turner Canal
FAKAHATCHEE
Barron Canal
LEGEND
flow paths
flow paths during high water
road
canal
small lakes
bridge
single culvert
double culvert
stop-log controls
USGS recorder
drainage divide
0
4
approximate
41
flow continues under 41 to estuaries

2. What has been the nature and extent of oil and gas exploration and development activity in the existing preserve since 1974? Under what set of negotiations does this activity take place?

ANSWER: Two oil fields producing oil from 36 wells on 13 pads now exist in the preserve. The Bear Island field includes 23 producing wells on 9 pads (10 in secondary production and 13 water injection wells). The Raccoon Point field includes 15 producing wells and one saltwater injection well, all on four pads. Eight more wells have been approved through the NPS regulatory process (36 CFR 9B).

Oil and gas plans of operation are processed on a case-by-case basis under regulations promulgated by the National Park Service in 1979 at 36 CFR 9B.

3. What is the NPS's view of the language in Section 4 of S. 90 stating that hunting, fishing and trapping "shall be promoted and encouraged" in the addition? What is the present status of trapping in the preserve?

ANSWER: We do not object to this language as it relates to hunting and fishing as these are important traditional activities in this area. Trapping is permitted pursuant to Public Law 93-440 but prohibited by State of Florida regulations. A Secretarial directive to contravene State policy appears inappropriate.

Question 4: The Pueblo of Acoma has requested that the federal lands which the Pueblo leases for grazing purposes in the Berry Hill and Bar 15 (or Carl Wilson) ranches be placed in trust and reserved for the exclusive use of the Pueblo of Acoma.

a. Does the Department support this request?

Response: No, we do not support this request. We are unaware of any justification as to why these lands should be transferred to the Tribe. However, we would have no objection if certain Pueblo of Acoma grazing lands were excluded from the boundaries of the proposed monument under the bill.

Question 5: Concern has been expressed about the future of grazing in the National Conservation Area and the wilderness units proposed to be created by this legislation.

a. What assurances are there that grazing would be permitted to continue at current levels in the National Conservation Area?

b. Is it necessary to include specific language mandating that grazing be allowed to continue at current levels in the National Conservation Area?

c. What assurances are there that grazing would be permitted to continue at current levels in the wilderness units that this bill would create?

d. Is it necessary to include specific language mandating that grazing be allowed to continue at current levels in the wilderness units?

Response: a. Grazing would be allowed to continue in the National Conservation Area at permitted levels as long as that use is compatable with good range management practices and multiple use objectives. If excess forage becomes available, it could be allocated to the permittee on either a temporary or permanent basis. If forage is found to be insufficient to continue grazing at existing levels, authorized use levels could be reduced to a more appropriate level.

b. It is not necessary to include specific language as there is no intention to reduce grazing to facilitate management of the National Conservation Area. By mandating a specific level of use, management options of increasing or decreasing forage allocation levels to protect the condition of the range would be foregone. Management decisions should be made by the professionals in the field.

c. Section 4(d)(4) of the Wilderness Act states that established grazing levels shall be permitted to continue subject to reasonable regulations. House Report 96-1126 provided further insights and guidance to the broad language of the Wilderness Act. The House report states that there shall be no curtailments of grazing in wilderness areas simply because the area has been designated as wilderness. Any adjustments to grazing levels should be consistent with normal grazing and land management planning policies.

d. It is not necessary to include specific language mandating grazing levels. The Wilderness Act provides protection for those persons who have grazing permits at the time of wilderness designation. The Bureau of Land Management Wilderness Management Policy clearly states that grazing levels at the time of wilderness designation would be allowed to continue subject only to normal grazing and land management planning policies.

Question 6: Some allotees will lose a portion of their grazing allotments under this bill.

a. What provisions will the Department make to provide these individuals with alternative grazing lands?

b. Is it necessary to include specific language in the bill mandating the exchange of grazing allotments?

Response: a. There is no unalloted grazing land available in New Mexico. The allottees would be given two years prior notification that their grazing permit and grazing preference may be cancelled. The permittee would be reasonably compensated for the adjusted value of any permanent range improvements within the permitted lands that had been paid for by the permittee. In lieu of payments, a permittee would be allowed up to 180 days after cancellation of the grazing permit to salvage materials owned and perform rehabilitation necessitated by the removal.

b. No.

Question 7: I have been informed that allotee Raney has ranch improvements, prime grazing land, water wells, and a family graveyard on portions of Section 28 of T6N, R11W which would be within the National Monument boundary.

Inclusion of the improvements within the National Monument boundary will severely impair his ability to conduct ranching operations in the future.

a. Would redrawing the boundary line to place all of Section 28 within the National Conservation Area rather than the National Monument severely adversely impact the quality of the National Monument?

Response: No.

Question 8: I have also learned that allotee Majors, who controls a grazing allotment on the west side of El Malpais, owns 120 acres of deeded land, a ranch headquarters, and a water well on Section 30 of T8N, R12W, which would be within the National Monument boundary.

Inclusion of these features within the National Monument would damage the ranch as an operating unit.

a. Would redrawing the boundary to remove this area from the National Monument and place it within the National Conservation Area severely adversely impact the quality of the National Monument?

Response: No.

Question 9: In 1981, the Bureau of Land Management completed the Draft Environmental Impact Statement and wilderness study report on the El Malpais Instant Study Area. The study indicated that the Chain of Craters unit was unsuitable for wilderness designation.

No final Environmental Impact Statement was ever issued and no recommendation regarding the El Malpais Instant Study Area was made to Congress. Since the completion of the Draft Environmental Impact Statement, some individuals have stated their belief that changing circumstances have made the Chain of Craters Unit suitable for wilderness.

a. Does the Department now believe the Chain of Craters to be suitable for wilderness designation?

Response: No. The Department has not changed the recommendation for the Chain of Craters wilderness study area.

Question 10: This bill will designate approximately 115,000 acres as wilderness and will study additional areas within the National Monument and the National Conservation Area for designation as wilderness. This will result in a comprehensive wilderness designation for the area.

After the designation of these areas of wilderness, there will be a number of small, isolated tracts which are under wilderness study designation that will not be designated as wilderness.

a. How much could it cost to continue to manage the wilderness study areas in the Malpais area which would not be designated as wilderness under this bill?

b. In order to complete the comprehensive wilderness review of the area, would you favor removing the wilderness study designation from lands in the area which are not designated as wilderness?

Response: a. There are approximately 14,450 acres located in 9 tracts that would remain under Interim Management Policy and Guidelines until Congress specifically decides whether they should be designated as wilderness or released to multiple use management. The Bureau of Land Management draft recommendation for these areas is they are not suitable for wilderness designation.

The estimated cost to monitor these areas, to ensure maintenance of existing values, would appropriate $1,100.00 per year.

b. Yes. Congress should remove the lands not designated as wilderness from any further consideration under Section 603 of the Federal Land Policy and Management Act.

Question 11: The legislation currently calls for two separate management plans for El Malpais, one for the Park Service and one for the Bureau of Land Management.

a. Would it be more cost-effective for a single management plan, incorporating both the Park Service and Bureau of Land Management units, to be developed?

b. What would be the cost of such a plan?

c. How does this compare with the cost of developing two separate plans?

Response: a. National Park Service and Bureau of Land Management Field Offices have discussed joint planning for the areas. The legislation calls for separate plans, and BLM and NPS would prepare separate, but coordinated plans. The two agencies envision working closely together in regard to both the content and the timing of the plans. Public involvement, including the release of plans for public comment, would be coordinated. Opportunities to release these two plans in one package for public review would also be pursued. Utilizing this approach, separate plans could be completed more efficiently than trying to prepare one plan for the entire area.

b. Estimated cost for Fiscal Year 88 to prepare one plan - $275,000. (BLM $125,000 and NPS $150,000)

c. Cost estimates for separate plans would be $50,000 less than one plan because extensive coordination and significant interagency reviews would not be required.

Question 12: I have been informed that the military used a portion of El Malpais as a bombing range during World War II. There appears that some unexploded bombs remain hidden in the lava flows.

a. What portions of El Malpais were used as a bombing range?

b. How much unexploded ordnance is estimated to remain in the area?

c. What program will the Department undertake to remove these exploded bombs?

Response: Nine square miles in the vicinity of McCarty's Crater were withdrawn by the Army from 1943 to 1947 (Sections 14,15,16,21,22,23,26,27, and 28 of T. 7N., R. 11W.) Live 100-pound ordnance bombs were dropped using McCartys Crater as the target. However, local residents have reported sighting bombs 5 to 6 miles away from McCarty's Crater. Another target area on a mesa just east of Sandstone Bluffs Overlook in Section 7, T. 8N., R. 9W. was used for penetration tests. Concrete and flour-filled 500-pound bombs were dropped in this area, according to local residents.

In August 1986, a local grazing allottee guided a BLM employee to the location of two live 100-pound bombs near McCarty's Crater. BLM contacted the 41st Ordnance Detachment at Ft. Bliss, Texas, who in turn detonated them. The military personnel in charge of the operation saw components of bomb fuses in the area leading to the belief that more bombs are probably present. The military recommendation was that the area be further cleared of unexploded ordnance. Neither the U.S. Army nor BLM will know how much unexploded ordnance remains until a detailed reconnaissance is completed.

In January 1987, BLM directed correspondence to the Commander of the 546th Ordnance Detachment at Ft. Sam Houston, Texas requesting a surface clearance.

We recommend that the Department of Defense survey the area to identify the locations of military ordnance dropped during World War II military bombing practices. The Department of Defense should remove or destroy any bombs that might pose a visitor use safety problem.

Question 13: It has been suggested that the name of the National Conservation Area be changed from the "Grants National Conservation Area" to the "El Malpais National Conservation Area."

a. Would the Department support such a chance?

Response: Yes. The Department would support such a name change.

14. The Department of Fish and Game of the State of New Mexico has considered reintroducing native Mexican bighorn sheep into the El Malpais area. Concern has been expressed that National Monument designation of this area will hamper or preclude the Fish and Game Department's ability to carry out such projects in the area with sportsmen's dollars because of management guidelines of the National Park Service.

a. What special arrangements can be made between the National Park Service and the New Mexico Fish and Game Department to give the Fish and Game Department the flexibility to manage wildlife resources in the El Malpais area?

ANSWER: The natural resources management policies of the National Park Service provide for the reintroduction of native species where feasible. A primary concern with the reintroduction of bighorn sheep is the potential for contact with domestic sheep which often results in the bighorn sheep becoming diseased. If legislation were enacted concerning El Malpais, the National Park Service will pursue a memorandum of understanding with the New Mexico Fish and Game Department to further evaluate the feasibility of bighorn sheep reintroduction. Enactment of legislation would not result in the cancelling of the possibility of reintroducing bighorn sheep into the El Malpais region.

15. How soon would the Masau Trail become operational?

ANSWER: The Masau Trail could become operational within 18 to 24 months from the date funds are available for the purpose of planning, of determining the criteria for trail sites, of formulating the tour route system, of formulating operational agreements, and of developing a media package.

16. How many visitors do you estimate would visit the Masau Trail?

ANSWER: Future use of the Masau Trail is very difficult to estimate at this stage because neither the planning of the trail route nor the development of a media package has been started. Once the planning has been done, a reasonable visitation estimate for the first few years of operation can be prepared.

17. How many persons currently visit each of the individual National Park Service units proposed to be included in the Trail?

ANSWER: Visitation statistics for 1986 for sites identified in S. 56 are as follows:

--Salinas National Monument	30,620
--Bandelier National Monument	237,960
--El Morro National Monument	54,950
--Chaco Cultural National Historical Park	49,470
--Aztec Ruins National Monument	62,530
--Canyon de Chelly National Monument	569,020

18. Under the bill as currently drafted, the Masau Trail includes only National Park Service sites. The Bureau of Land Management administers a number of historic and prehistoric sites in the area, such as the Ditterd Site, Guadalupe Ruin, Casamero Site Chacoan Outlier, Pierre's Site Chacoan Outlier, Hooded Fireplace Navajo Refuge Site, and Simon Canyon Navajo Refuge Site.

a. Taking into account the visitor quality of these sites, their accessibility, and the potential for adverse impacts resulting from increased visitor use, should these sites be included in the Masau Trail at its inception?

ANSWER: Additional sites should be addressed only in a general way in the legislation. Sites which are eventually selected through the operation plan criteria (which would be developed among Federal, State, local, Native American, and private interest groups) should have the capability to accommodate visitation without experiencing unacceptable impacts from use. At this time, it is premature to suggest sites for inclusion until the study has been carried out.

19. Are there any other sites that the Department feels should be included in the Masau Trail at its inception?

ANSWER: Site selection should be minimized in the legislation. Any additional sites should be identified through the planning process.

20. Route 66 used to be the major east-west highway in the Nation. Much of the twentieth centure migration to the southwest and California was carried by Route 66. Additionally, Route 66 had a great impact on tourism by making vast areas of the country accessible by automobile. Route 66 also opened a window for Americans to become exposed to the Indian and Hispanic cultures of the southwest. In sum, Route 66 played a significant role in American cultural history.

I believe the Department should study the possibility of preserving a section of Route 66 for future generations.

a. If such a study were undertaken, what should the parameters and the mandate of the study be?

b. How much would such a study cost?

c. Could this study be undertaken as part of the planning process for the Masau Trail?

ANSWER: A study of Route 66 should begin with a general resource analysis and a determination of significance followed by a more in-depth analysis of the resources in New Mexico and Arizona.

We estimate that an evaluation of Route 66 would cost approximately $100,000. The study would result in a report to the appropriate committees of Congress on the full range of commemorative opportunities and required interagency arrangements. Participation by other Federal agencies, State and local governments, and the private sector would be necessary.

The planning for the Masau Trail should be approached as a separate requirement from a feasibility study of Route 66. The Masau Trail operational plan should result in a detailed management plan, site system, and route system. The Route 66 study should focus on the feasibility of commemoration and should provide the background and data for future potential action.

Question 6: It is my understanding that El Malpais, West Malpais and Chain of Craters are within one of the 55 BLM areas identified in FLPMA for "instant" wilderness study, with a reporting date of July 1, 1980. The study process for these areas began in 1981, at which time BLM published a draft EIS, held public hearings and collected public comment. A final EIS has not been issued, nor has a recommendation been sent to the President or to Congress regarding this area. Can you explain why there has been a seven year delay in submitting the recommendations for these areas, as required by Section 603 of FLPMA?

Response: Reporting action on the El Malpais ISA was deferred because of the Navajo Land Exchange and uncertainties in dealing with split estate lands. In the El Malpais Instant Study Area (ISA), approximately 40,000 acres of private checkerboard lands (i.e., alternate section) were purchased by the Navajo Tribe for ultimate transfer to BLM. In August 1979, BLM identified the Navajo Exchange as an acceptable solution to facilitate acquisition in the El Malpais area and to resolve the problem of unauthorized Navajo occupancy of public lands in northwest New Mexico. BLM proceeded with the preparation of a draft wilderness environmental impact statement (DEIS) which was released in August 1981. This Draft EIS was prepared based on the assumption that legislation authorizing the exchange would be enacted prior to preparation of the Final EIS. Legislation on the Navajo Exchange was passed in October 1982 (P.L. 97-287). However, split estate lands became an issue, and resolution of this issue was not clarified until the Sierra Club vs. Watt court decision in 1985. Since 1985, BLM has been involved in preparing the Statewide Wilderness EIS. The BLM plan is to complete the El Malpais EIS after completion of the Statewide EIS.

Question 7: Last Congress, the Administration testified before the House Public Lands Subcommittee that there has been an administrative decision not to submit the recommendations for "Instant Study Areas" by 1980 as required by law, in order to package these recommendations with the Statewide EIS. The revised EIS was issued in September 1986, without any reference to these three areas. Can you explain this omission? Can you also provide for the Committee a list of Instant Study Areas for which recommendations have been submitted to Congress?

Response: The testimony of the Administration in the last Congress was misinterpreted. While the revised Statewide wilderness EIS includes analyses and a recommendation for the four Wilderness Study Areas east of Highway 117 (Rimrock, Pinyon, Sand Canyon, and Little Rimrock), there was no intention of restudying and/or combining the El Malpais ISA in the Statewide process. The preferred option of the Administration was to complete the final EIS on the El Malpais ISA and then include such recommendations for the El Malpais ISA and the other areas that were included in the Statewide EIS together into a single legislative package for transmittal to the President.

A listing describing the Status of the Instant Study Areas is attached.

Question 8: The four WSA's east of highway 117 were recommended for wilderness designation in the September 1986 revised Statewide EIS. This document did not indicate that there were significant mineral conflicts in these areas. What is the source of the new mineral information regarding these areas which were referenced in your testimony? Please elaborate on the nature of this new mineral data. Can you describe the exact nature of additional mineral studies that the administration intends to conduct on these areas? When will these studies be completed? What will be the cost of completing these studies?

Would these studies be significantly different in nature than the USGS and Bureau of Mines Wilderness mineral survey (open file report #81-557 January 15, 1982)? It is my understanding that this study also concluded that the El Malpais complex, including the four WSA's, had low to nil mineral resource potential. Is this not correct?

Response: As stated in the September 1986 revised Statewide EIS, there are no potentially significant mineral conflicts in these areas. This conclusion is based on a draft copy of New Mexico Bureau of Mines and Mineral Resources (NMBMMR) Open-file Report 230, dated April 1986. The new mineral information for these areas was provided by Santa Fe Mining, Inc., a holder of approximately 16,000 acres of private minerals underlying BLM lands in the southeast portion of the proposed National Conservation Area (NCA). Santa Fe Minerals met with the BLM Albuquerque District and Rio Puerco Resource Area Offices on January 23, 1987, February 6, 1987, and March 9, 1987, to discuss an exchange of their mineral rights in the El Malpais complex. Preliminary analyses of the company's drilling data in the area confirms the low coal development potential of the area as previously stated by USGS Open-file Report 81-557 (1981) and NMBMMR Open-file Report 230, April 1986 Draft.

The USGS report referenced stated that overall the areas have low to nil mineral resource potential. This report is accurate except to the extent that moderate oil and gas potential of the areas was determined as reported in the recent NMBMMR report. Even though the area has moderate oil and gas potential, BLM believes that anticipated levels of actual exploration and any development on private subsurface could be accommodated without impairing the wilderness character of the areas as stated in the revised Statewide EIS.

The United States Geological Survey and Bureau of Mines have been asked to complete detailed mineral surveys on the four wilderness study areas east of Highway 117. Much of the basic geology of these four WSA's was mapped as part of the Open File Report #81 - 557 completed in January 1982. Parts of the WSAs still require some geologic mapping and the studies underway will finish such mapping, complete sample taking and analyze the geochemistry of the area. Based on this information, the agencies will then complete their evaluation of the mineral potential of the areas. Initial indications outlined in the Open File Report show that minerals present have no economic value.

The present studies include 60,742 acres. The final reports are due to be completed by September 30, 1989, with a draft report to be available six months earlier. The cost for completion of these reports is estimated at $6.70 per acre for a total of $406,970.

Question 9: The Rio Puerco Final Resource Management Plan (November 1986) also recommended Wilderness designation for the El Malpais Instant Study Area and the Four WSA's. In light of this additional final recommendation, how can these areas be considered premature for consideration by Congress?

Response: The Rio Puerco Resource Management Plan (RMP) did not recommend wilderness designation for these areas. The Plan only provided information on the status of the wilderness recommendations for El Malpais and the four Wilderness Study Areas (WSA's) east of Highway 117. Those areas were being studied separately and outside of the RMP process, and the RMP included this information for background reference purposes.

Question 10: For the El Malpais land area covered by S. 56, please provide the Committee with acreage data on current ownership of surface and mineral estate.

Response: The surface ownership is as follows:

BLM	273,500
Forest Service	5,300
Indian	3,500
State	27,300
Private	68,100
Total	377,700

The mineral estate ownership is as follows:

Federal Minerals (All)	141,000
Federal Minerals (oil & gas only)	2,000
State	27,300
Non-Federal minerals	207,400
Total	377,700

Question 11: As I understand it, the BLM's Rio Puerco Final Resource Management Plan designated the El Malpais area as a "special management area." Is it not true that as a result, the El Malpais area is therefore a top priority for acquisition (through exchange) of all surface and mineral estate currently in State or private ownership?

Response: BLM's Rio Puerco RMP, of November 1986, provides for an active, long-term program of land ownership adjustments, including disposal of public lands, as well as acquisition in identified areas, of State and private lands, for both surface and subsurface minerals. The RMP identifies the El Malpais area as "top priority for consolidating public land ownership through acquisition of State and private lands to improve the ownership pattern and manageability."

The Rio Puerco RMP also identifies and establishes the major portion of El Malpais area (302,611 acres) as a Special Management Area (SMA), and assigns first implementation priority to the 10 designated Areas of Critical Environmental Concern and the El Malpais SMA. The boundaries of the El Malpais SMA were drawn to consolidate a series of overlapping special designations including the El Malpais National Natural Landmark; El Malpais Wilderness ISA; Rimrock, Sand Canyon, Little Rimrock, and Pinyon WSA's; El Malpais Outstanding Natural Area and Natural Environmental Area; Las

Ventanas (Candelaria Ruin) Chaco Archeological Protection Site. The acquisition objectives for the El Malpais SMA are identified, in priority order, as follows:

1. Minerals underlying BLM administered surface.
2. State lands (both surface and minerals).
3. Private lands (which would improve manageability).

The RMP intends that activity plans are to be developed for each SMA. The activity plan provides the vehicle to identify specific holdings within the boundaries of the SMA for acquisition purposes.

Question 12: How much surface and mineral estate acreage in the El Malpais complex has already been acquired through exchange with State or private owners?

Response: The BLM has acquired a total of 46,363.97 acres of surface estate through an exchange with the Navajo Tribe. The first conveyance on April 23, 1985, involved 45,261.05 acres. The second conveyance on September 16, 1985 involved 1,102.92 acres.

Question 13: What is the status of the BLM's current efforts to acquire the remaining non-Federal surface and mineral estate in El Malpais?

Response: BLM is in the process of acquiring, through exchanges, 21,714.00 acres of mineral estate from the New Mexico-Arizona Land Company (NZ). This exchange is scheduled for completion by April 30, 1987. Phase II of the exchanges with NZ will involve acquisition of 36,922.8 acres of mineral estate. NZ's proposal for Phase II is expected to be received in March 1987. NZ Phase III, also within the SMA, involves 47,963.20 acres of mineral estate. Phase III is currently only in the preliminary planning stage.

There is also a State Land Exchange in progress in which BLM would acquire 28,587.50 acres of surface and subsurface estate within the Malpais area in exchange for federal land (both surface and minerals) in Torrance County, New Mexico.

The BLM is also currently considering an exchange proposed by Santa Fe Minerals Corporation to acquire their 16,000 acres of mineral holdings in the SMA. A proposal is anticipated in March 1987.

Acquisition of private in-holdings have been temporarily suspended.

Question 14: Since the Rio Puerco land use plan already provides for acquisition of non-Federal surface and mineral estate, how is it that S.56 would increase the burden of costs? Does the Bureau intend to ignore the plan's acquisition provisions for El Malpais?

Response: As previously stated, BLM is proceeding to implement the Rio Puerco land use plan. S.56 proposes to designate approximately 377,700 acres of Federal, State, and private land as El Malpais National Monument (NM) and Grants National Conservation Area (NCA). The Rio Puerco land use plan established a 302,611-acre special management area. The area included within the S.56 proposal is over 75,000 acres greater than El Malpais special management area. Included in the 75,000 acres are 12,000 acres of private land, including the commercial Bandera Ice Caves and crater areas.

4. In the event that S. 90 is enacted, is it your view that the addition should be managed like the existing preserve? If you believe that different management is desirable, please specify the changes you would suggest.

ANSWER: The additions to the preserve should be managed in the same manner as the existing preserve. Also, a Resource Base Inventory (RBI), as part of the general management plan effort, has been compiled to facilitate decisionmaking in the preserve. While it is an invaluable albeit an expensive tool, we propose developing an RBI for the addition. With regard to S. 90, we recommend that a general management plan be completed within 3 years from the date appropriations are made available.

5. Some have suggested that Florida SR 29 would be a more appropriate western boundary for a portion of the present preserve rather than have the FWS administer these lands as part of the proposed Florida Panther National Wildlife Refuge. Do you share this view?

ANSWER: State Road 29 with its adjacent borrow canal form an easily identifiable western boundary for the preserve. The canal also creates a hydrological boundary that would aid in clearly defining management units.

Questions from Senator Wallop:

Question 1. Please submit the exchange agreement being proposed by the Department of the Interior.

Response: We do not have an exchange agreement at this time. The agreement is still under negotiation; however, we expect to reach an accord in the near future. As soon as we reach an agreement copies will be provided to the Committee.

2. What was the total land acquisition cost for the Big Cypress Preserve as of this date?

ANSWER: Land acquisition funding information for Big Cypress National Preserve follows:

$156,700,000 - Authorization for land acquisition
$182,438,367 - Appropriated through FY 1987 of which $25,738,367 was appropriated under the authority of Public Law 95-42.
$ 2,724,503 - Unobligated as of 1/31/87

Questions from Senator Graham:

1. Question: During several discussions and meetings among our staffs, it was clearly stated by Senator Chiles' assistant and my assistant that the limitation to three access points for oil and gas exploration and development was a drafting oversight in the bill. Assurances were given to your staff that the bill would be amended in Subcommitte to include the additional access points. With that knowledge, how can you justify misleading the Subcommittee with your emotional argument of additional Federal liability imposed as a result of limited access points?

Response: I do not believe my testimony was in any way misleading. First, it has always been the policy of this Department to express concerns during testimony over provisions of the subject legislation with which we disagree, regardless of assurances that the problem will be resolved. That policy was applied in this case, although the testimony was revised after the discussion with your staff. Secondly, and more importantly, physical access to the land does not automatically translate into access to its underlying minerals.

Access to the minerals could be precluded as a result of disputes between the owners of the mineral rights and the National Park Sevice over how the minerals were to be developed. Such disputes are not unusual where split-estate public lands are concerned. In the event that the dispute was not resolved, or that the government sought stipulations and conditions which would have the effect of preventing economical recovery of the minerals, the owners of the mineral rights could seek compensation in the courts. This is the primary concern we have concerning this issue and S. 90.

Our agreement would resolve this problem. It is our intent to incorporate into the exchange agreement both agreement by the Collier interests to abide by the substantive National Park Service environmental protection standards for oil development in Big Cypress National preserve and agreement that any dispute would be resolved in accordance with the provisions governing oil development at Atchafalya National Wildlife Refuge. Under these provisions, once the owner has agreed to abide by environmental standards, he has a right of access to his minerals. In the event the government believes the environmental standards are not being met, the government's remedy would be to seek compliance in the courts. If the courts agreed that the environmental standards were not being met, the solution would be compliance by the owner, not compensation for lack of access. In the event the government was blocking the development of the mineral rights in some way, the owners' remedy in court would be an injunction for access (again in compliance with the agreed-to environmental standards), rather than compensation.

This is the important point regarding access. I was fully aware of your intent to amend the legislation regarding the limitations on physical access, but this would not resolve the question of possible liability over access to the mineral rights. In retrospect, I should have gone into this in detail in my testimony.

2. Question: In referring to the proposed land exchange between the Department of Interior and the Collier's, you state that the agreement would contain environmental protection standards for oil and gas exploration and development "substantially similar" to those presently in force within the existing Big Cypress Preserve. Fr what reasons do you believe that these standards should not be "identical" to those in place for the existing Preserve?

Response: The term "substantially similar" was used because the issue is still under negotiation. It is our intent to follow the existing standards. However, we did not want to be precluded from making changes which either the Park Service or the Colliers might suggest and which might be agreeable to all parties.

3. a) Question: You also state in your testimony that the State of Florida's share of acquisition costs under the formula in S. 90 would be about $20 million. In this figure, are you including the State's ten percent share of the severance damages for property along Alligator Alley?

Response: No. This figure represented our estimatation of land acquisition costs only.

b) Question: Additionally, you state that Florida has already appropriated that amount ($20 million). In an effort to clarify, the State has available $16.5 million in funds with which to acquire several tracts of land to carry out our "Save Our Everglades" program. The original $22.5 million that the State has set aside has been decreasing gradually as the State begins to acquire property as assessments and acquisitions are made along Alligator Alley.

As a point of further clarification, I would like to share with you the estimates the State has put together for the acquisition of the 136,000 acres under S. 90:

total est. land value		$102.2 million
highway severance funds		$ 43.8 million
80/20 federal/state funding		
	state	$ 11.7 million
	federal	$ 46.7 million

Response: We appreciate the information on the declining availability of state funds. However, we still believe that the purchase of the non-Collier lands in the proposed Addition is a fair State contribution to the overall acquisition.

We also appreciate having these figures for the purchase costs of the lands covered by S. 90. We have been relying on several documents received from the State of Florida in 1985 and 1986 which showed the Department's share of purchase acquisition costs as ranging between $40 million and $62 million, plus associated administrative costs.

4. Question: You state in the beginning and at the end of your testimony that S.90 should be amended to provide for implementation of your exchange proposal. I would like to emphasize here that S. 90 does not preclude any land exchange as a means of acquisition. The bill would merely authorize designation of the Preserve and acquisition of the 136,000 acres. Nowhere in the bill does it specify how the land is to be acquired. Therefore, S. 90 already provides for your exchange proposal; it would only be necessary for you to draft supplimental legislation to authorize the exchange itself.

Response: We disagree. S. 90 clearly authorizes acquisition by use of appropriated funds, an expenditure that we cannot support in light of present budget deficit. Section 5 has detailed provisions for cost sharing between the Federal and Staste governments for the aquisition, including provisions for reimbursement payments to the State from appropriated funds, and Section 8 authorizes appropriation of funds for the acquisition. Our position is that the legislation should be amended to provide for acquisition only by exchange.

Questions Submitted by Senator Pete V. Domenici
for the Department of the Interior

Question 1: Last year, the Bureau of Land Management estimated that it would cost $2 million to exchange out the 68,330 acres of private land in the 351,000-acre National Monument which was under consideration. At that time, the Bureau of Land Management expected that the majority of private land could be acquired through exchanges.

a. How many acres of private surface and subsurface estate is contained within the 126,000-acre National Monument currently under consideration?

b. What would it cost to exchange out those lands?

c. Private lands within the National Conservation Area would not need to be acquired. How many acres of private surface and subsurface estate is contained within the 253,000-acre National Conservation Area?

d. How many acres of private subsurface estate is contained within the boundaries of the areas proposed to be designated as wilderness by this bill?

e. How many acres of private subsurface estate is contained within the Chain of Craters wilderness study unit?

Response: a. The proposed National Mounment currently under consideration includes approximately 21,300 acres of private surface and 80,800 acres of non-Federal minerals, consisting of approximately 27,300 acres of State and 53,500 acres of private minerals.

b. In the proposed National Monument, there are approximately 21,000 acres of private surface. Since last year, BLM has undertaken discussions with landowners about potential acquisition. Based upon the information obtained BLM believes that only half of the acreage can be acquired through exchanges. The reason for this opinion is that we understand some of the land was purchased for speculation and the owners will want cash. Some of the lands were purchased for retirement purposes and most owners may not have the time nor the inclination to pursue an exchange. Also, a major consideration in this regard is that BLM does not have potential retirement type acreage (i.e., quality sites with Ponderosa Pines) available for exchange.

Under the assumption that only one half of this land, including the subsurface, can be acquired through exchange, BLM estimates that costs would approximate $750,000. However, there would remain the other half of the private holdings that would have to be acquired by purchase or other means.

c. Within the proposed National Conservation Area, there are approximately 46,800 acres of private surface and 153,800 acres of non-Federal minerals consisting of approximately 16,700 acres of State and 137,100 acres of private minerals.

d. There are approximately 57,850 acres of non-Federal subsurface estate within the boundaries of the proposed wilderness areas including approximately 5,360 acres of State and 52,490 acres of private minerals.

e. The Chain of Craters wilderness study area contains approximately 11,040 acres of non-Federal minerals consisting of approximately 1,880 acres of State and 9,160 acres of private minerals.

Question 2: The Bureau of Land Management has received at least six land exchange proposals in the Malpais area. These land exchanges would help consolidate the public ownership of El Malpais at a minimal cost.

a. How many land exchange proposals currently are pending in El Malpais?

b. What is the status of these proposals?

Response: BLM is presently working on three exchange proposals. These are: 1) a State exchange, 2) a minerals exchange with the New Mexico and Arizona Land Company (NZ), and 3) a minerals exchange with Santa Fe Minerals Corporation. In addition to these proposals, BLM has received two formal private exchange proposals which are as follows:

NM 54584 - Pierre Arrosa - Application received August 10, 1982 - Exchange proposal includes exchanging private land in Section 8, T. 8N., R. 11W. - 640 acres.

NM 674291 - Norman Thayer - Application received December 12, 1985 - Exchange proposal includes exchanging private lands in Section 9, T. 8N., R. 12W. - 367 acres.

In addition to the formal exchange requests, eight letters of interest for exchanges have been received as follows:

Candelaria Family - Exchange Candelaria Ruins (Chacoan Outlier System) Section 29 & 31, T. 9N., R. 9W. Interest expressed on March 24, 1984.

Lory Sanchez - Private land (57 acres) within Ice Caves. Interest expressed on December 12, 1985.

Sleet Raney - Private lands (178 acres) within Sections 9 and 17 T. 8N., R. 12 W. Proposal received March 8, 1986.

Linda Hughes - Private lands (50 acres) within T. 9N., R. 12W., Section 31. Interest expressed on September 15, 1986.

Lewis Bright - Private lands within Section 6, T. 8N., R. 11W., - 320 acres. Interest expressed on October 28, 1986.

Bruce King - Private lands within "Hole in the Wall." Interest expressed on November 1986.

Louis Menyhert - Propose to acquire 5,120 acres in, R. 13W., Sections 10-14, 21 thru 23, 26 thru 28, 34 and 35. Interest expressed on November 4, 1986.

James Mann - Private land within Section 19, T. 8N., R. 12W., of approximately 302 acres. Interest expressed on November 1986.

All private exchanges have been temporarily suspended pending the completion of the NZ Mineral Exchange and State Exchanges, which are of higher priority.

Question 3: Concern has been expressed that the proposed boundary between the National Monument and the National Conservation Area on the east side of El Malpais would create management problems. It has been suggested that this boundary be shifted either east or west of its current proposed location.

a. Should the boundary be adjusted so that all lands east of State Road 117 would be in the National Conservation Area and all lands west of the road would be in the National Monument?

b. Alternatively, should the boundary be adjusted so that the eastern boundary of the National Monument would be located along the top of Cebollita Mesa?

c. Would either boundary adjustment detract from the resource values of the National Monument?

Response: a. Along Highway 117, to avoid having areas on both sides of the highway managed by both agencies, with probable visitor confusion, it is recommended that the road be used to form the boundary between the National Monument and the National Conservation Area. This modification would also clarify grazing concerns, especially in the vicinity of the natural arch.

b. No.

c. No.

APPENDIX II

Additional Material Submitted for the Record

TESTIMONY OF GARREY CARRUTHERS, GOVERNOR OF NEW MEXICO
AND
THOMAS G. BAHR, SECRETARY, NM NATURAL RESOURCES DEPARTMENT

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
U.S. SENATE

CONCERNING S. 56 - EL MALPAIS NATIONAL MONUMENT
WASHINGTON, DC
FEBRUARY 19, 1987

Mr. Chairman and members of the Public Lands Subcommittee, we regret not being able to personally appear before today's hearing but would like to submit this written testimony for the record.

A preliminary analysis of S. 56 suggests that it will provide an important boost to the state's tourism industry and spur economic development and the creation of new jobs in New Mexico. Moreover, the bill could increase tax income to state and county governments. Gross receipts tax collections alone are likely to increase by more than $800,000 annually if just 100,000 people visit the El Malpais National Monument each year. Furthermore, the bill guarantees that the unique natural wonders of the El Malpais region will be preserved. These objectives appear to be attainable with little opposition; there are a few conflicts with competing land uses, but these can be minimized through clarification of the bill's language.

There are two specific provisions of S. 56 that present significant improvements over analogous legislation introduced in the 99th Congress. First, creation of distinct land designations for the El Malpais National Monument, to be administered by the National Park Service, and for the Grants National Conservation Area, to be administered by the Bureau of Land Management, offers a constructive approach to resolve the thorny issue of which of the federal land management agencies should have jurisdiction in the El Malpais area. Secondly, creation of the Masau Trail automotive route linking cultural sites in northwestern New Mexico should increase tourist interest in spending additional time visiting these areas of the state, while helping to ensure that these outings will be enjoyable. There are, however, a few important provisions in S. 56 that warrant further clarification, including grazing and water rights, land exchanges, and wildlife management.

In regard to grazing rights, the status of livestock grazing on nonwilderness areas within the Grants National Conservation Area is left unclear in Section 302(a) of Title III of S. 56. Without assurance that the integrity and continuity of livestock operations within the conservation area will be protected at least to the same degree as within the wilderness designation, the door may be left open for the BLM to curtail domestic livestock numbers and operations. To ensure equal protection of grazing rights, the bill should be amended by adoption of the language contained in Section 4(d)(4)(2) of the Wilderness Act of 1964. Specifically, "(t)he grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Interior."

Water rights are also not clearly resolved in S. 56 as it now stands. Most of the area to be included in the land designations created by S. 56 is within the Rio San Jose watershed. Water rights in this watershed are currently being adjudicated in New Mexico State Court. The bill, S. 56, should also provide that no federal reserved water rights are created by the establishment of the national monument, the conservation area, or the wilderness areas. We believe that acquisition of federal water rights should be obtained pursuant to state law.

The withdrawal of about 380,000 acres of public domain land authorized by S. 56, though welcome, might result in the adoption of overly restrictive guidelines, especially on lands administered by the National Park Service, that could seriously hamper the state's ability to manage or enhance the wildlife resources in this area. A prohibition against hunting, for example, could deprive the area of some potentially valuable attractions which result from state projects funded with sportsmen's dollars. Hopefully, special arrangements can be made with the National park Service regarding the administration of the El Malpais National Monument that would provide the state with greater flexibility in the management of wildlife resources than is currently permitted.

The potential loss of productive private lands by condemnation for special use as a result of the land withdrawals is another issue that should be addressed as soon as possible.

The State of New Mexico looks forward to working with you on this bill and on other legislation affecting public land designations in New Mexico. To the extent possible, it might be desirable to approach the issue of all public land designations in New Mexico from a state-wide perspective through comprehensive federal legislation, rather than addressing each site separately. We in New Mexico state government would like to work toward that objective with you also. Thank you for the opportunity to comment on this important matter.

SOCIETY FOR AMERICAN ARCHAEOLOGY

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**Statement of the Society for American Archaeology
Presented for the Record
Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Reserved Water and Resource Conservation**

February 19, 1987

Mr. Chairman and Members of the Committee, the Society for American Archaeology is pleased to present this testimony in support of S. 56, the El Malpais National Monument Act.

Why S. 56 is Important for Archaeologists

Archaeological sites have been compared to untapped data banks holding unimaginable, unmeasurable pieces of information. So it is not surprising that this bill has special significance for archaeologists. The language repeatedly stresses the importance of cultural resource protection, management, intrepretation, and study.

The Southwestern United States has a long and intriguing cultural history. The Chacoan, Mogollon, and Anasazi were among the first to live on the land we inhabit today. The physical remains of such cultures are evident throughout this area.

S. 56 would establish a National Park, a National Conservation Area, a Wilderness segment and a Trail incorporating major examples of the cultural history of the American Southwest. In establishing these federal areas, S. 56 provides specific language on the priorities for enforcing the Archaeological Resources Protection Act and the National Historic Preservation Act. The bill also mandates coordination with tribal leaders in development of the resource protection plans. A multi-disciplinary center is authorized to provide cost-efficient, important research and information. All of these aspects we support.

The El Malpais National Monument Act stresses the importance of long-term archaeological study including in those areas designated wilderness. This is a landmark clause. The Society supports this and urges others to use similar language. A major emphasis is placed on interpretative materials, devices, and a multi-agency center. We applaud this since without proper interpretative materials visitors lose much of the enjoyment and awe of understanding the relationship of the culture, its technology and nature.

Why Archaeology is Important to Everyone

For centuries Americans have had an unquenchable desire to know about the past. As early as 1785, Thomas Jefferson was performing excavations at Monticello and producing detailed accounts of the finds.

Archaeological remains allow us to seek to answer who, what, where, why and how questions about our own society, simply for the sake of statisfying the innate drive of human curiosity.

But archaeology is not just for curiosity. Archaeological studies reveal information about past environments, the health of long gone populations, their technology and farming practices. The science of archaeology works closely with biology, forestry, animal management, medicine, geology, physics, chemistry and many other sciences.

Legislation such as S. 56 provides the opportunity for long-term site protection. This ensures that archaeological resources will be available in generations to come for continued or new studies. The provisions in S. 56 detailing resource protection, ARPA enforcement, long-term study, interpretative materials and multi-agency coordination should be standard in legislation which relates to archaeological sites. The SAA hopes this bill will act as a catalyst for other similar legislation and language.

Conclusion

The El Malpais National Monument legislation offers an innovative and exciting opportunity for many disciplines to join in the study of the past, to bring the excitement of the past to visitors and to scholars, and to preserve a unique and valuable selection of national resources.

The Society for American Archaeology supports the establishment of such a National Monument, National Conservation Area, Wilderness and Trail. We urge the Committee to enact this legislation.

We would be pleased to provide any additional information the Committee should require. Mr. Chairman and Members of the Committee, the Society for American Archaeology thanks you for this opportunity to present our views.

PUEBLO OF ZUNI
P. O. BOX 339
ZUNI, NEW MEXICO 87327

ROBERT E. LEWIS
Governor
PESANCIO LASILOO
Lt. Governor
BARTON MARTZA
Hd. Councilman
EDWARD BEYUKA
Councilman

VIRGIL WYACO, SR.
Councilman
ANGUS MAHOOTY
Councilman
RITA ENOTE LORENZO
Councilwoman
WILLIAM TSIKEWA, SR.
Councilman

In reply refer to:

505-782-4481

February 13, 1987

The Honorable Dale Bumpers
Chairman
Subcommittee of Public Lands, National
  Parks, and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Bumpers:

On behalf of the Zuni People, the Governor, Lieutenant Governor, and Tribal Council of the Pueblo of Zuni, New Mexico, wish to provide the following written comments on S.56 presented to the 100th Congress, 1st Session, on January 6th, 1987, "To establish the El Malpais National Monument, the Masau Trail, and Grants Conservation Area in the State of New Mexico, and for other purposes".

The proposed boundaries of the El Malpais National Monument and Grants Conservation Area are largely encompassed within the area of traditional land use as documented by the Zuni People. Under Title V, Sec. 501. (a)(3) the proposed Bill S.56 states that "natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the State of New Mexico State Historic Preservation Office, and the Pueblo of Acoma and their traditional cultural and religious authorities". We believe that, given the documented traditional use of a large portion of the proposed El Malpais National Monument and Grants Conservation Area by the Zuni People, then the Pueblo of Zuni should also be accorded similar consultation rights under this proposed Bill.

We understand that the proposed boundaries of the El Malpais National Monument includes two documented sacred shrines of the Zuni People, *łemulle* (Ice Caves), and *Udeya:* *Yallane* (Bandera Crater). *łemulle* is used by the Big Fire Society, Sword Swallowing Society, and annually by Longhorn Groups. It is also used by Curing Societies to pray for rain and snow. *Udeya:* *Yallane* is used by our Longhorn Groups, Sword Swallowing Society, and by the Council of the Gods. These sacred shrines are recorded in the Zuni Land Claims.

We note that in S.56 Title V Sec. 501. (a)(2) "a visitors center in the vicinity of Bandera Crater" is proposed. Also in Title V. Sec. 504. it is stated that "the Secretary, in consultation with appropriate Indian Tribes and their traditional cultural and religious authorities, define past cultural and religious uses of the monument and the conservation area by Indian people". We are concerned that planning for and implementation of the Monument and Conservation Area is fully consistent with the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996), and fully accounts for the traditional religious freedom of the Zuni People. We wish to clearly state our concerns for the protection and respect of our sacred shrines *łemmulle* (Ice Caves), and *Udeya:* *Yallane* (Bandera Crater) if a visitor center with its associated increased activities and access is constructed. We also wish to clearly state that these shrines are *presently* *in* *continuing* *use* by the Zuni People, and that the *future* use of these shrines is central to our ability to practice our traditional Zuni religion. Other current and ancient sacred Zuni shrines are probably within the proposed Monument and Conservation Area boundaries. We feel that our traditional religious interests in the area warrant the highest respect throughout each stage of the planning, implementation, and management processes. Consequently the Pueblo of Zuni requests close consultation between the appropriate employees of the Federal Government and the People of Zuni.

The Pueblo of Zuni has a long and active cultural interest in the ethnography, history, and archaeology of the area encompassed by the proposed El Malpais National Monument and Grants National Conservation Area. We see that S.56. Title V. Sec 501 (a)(3) provides for "natural and cultural resource management plans" for the Monument and Conservation Area. These plans are to be completed within two years of enactment of this Act (Title V. Sec 501. (a)). We wish to note that the Pueblo of Zuni has an active and successful Archaeology Program and we request that full consideration be given to our Tribal Archaeology Program for the preparation of the ethnographic and archaeological overviews of the Monument and Conservation Area. Such would ensure that the area could be managed by the National Park Service and the Bureau of Land Management in a manner compatible with the traditional cultural and religious interests of concerned Indian tribes.

The Pueblo of Zuni welcomes the opportunity to include several of our major archaeological and cultural sites within the proposed Masau Trail. We note that the Masau Trail will link units of the National Park Service as well as other sites of cultural and scenic significance. The prehistoric and historic ruins of Yellow House, Village of the Great Kivas, Hawikuh, and Kechipbowa are located on the Zuni Indian Reservation and comprise the Zuni-Cibola National Historic Landmark. This National Historic Landmark has been considered for development as a National Park in the past by the National Park Service, and these considerations ought to be made again. The Pueblo of Zuni itself is listed on the National Register of Historic Places. Title II. Sec. 202. provides that "With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or non-profit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources along the trail". Interpretive technical assistance by itself, is not adequate. Increased visitation to the listed sites, and other fragile archaeological sites on the Zuni Reservation, would require both technical expertise and monetary assistance to stabilize these ruins and provide for their protection. The Zuni Tribe does not, by itself, have the resources to protect these sites from increased visitor use nor to develop them for such use.

The Pueblo of Zuni supports the concept and implementation of the El Malpais National Monument, the Grants National Conservation Area, and the Masau Trail. With an unemployment rate of approximately seventy five percent the Zuni People are eager to see this development take place. The Zuni People do, however, expect that their concerns for their traditional cultural and religious values, and the protection of their cultural and archaeological resources, are adequately addressed during the planning, implementation and management processes resulting from this Bill.

Sincerely,

Robert E Lewis

Robert E. Lewis
Governor, Pueblo of Zuni

P. O. Box 36989
Albuquerque, NM 87176

February 8, 1987

The Honorable Dale Bumpers
U. S. Senate
Room 229 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Bumpers:

Before you begin to question the source of this letter which is not from one of your constituents, may I identify myself as J. W. Hull's younger daughter. Although I am now a resident of New Mexico, I still have strong Arkansas ties, and consequently feel that I may approach you.

On February 17th your sub-committee on Public Lands will hear Senate Bill 56, "El Malpais/Masau Trail". It is in support of this bill that I write.

The western part of our country contains still unspoiled lands which are unique, beautiful, and rich in historial artifacts. The present day needs of our citizens for living and working space must be met, but not in ways that would unthinkingly destroy important links to the nature of this country and to the people who inhabited it before us. Such preservation often calls for actions that state and local governments are unable to handle alone. Because this land belongs to us all the help of the federal government is asked.

I would ask that the bill be amended so that publically owned portions of Albuquerque's West Mesa would be considered in the National Park Service's study to determine the appropriateness of their inclusion in the Masau Trail. I speak specifically of Volcano Park, La Boca Negra Park, The Indian Petroglyph State Park, and Piedras Marcadas.

It is my hope that next week's hearing will bring forth a favorable response that will take us one step closer to being able to preserve at least a portion of what can not be replaced.

With best personal regards and the greatest respect, I remain

Yours very truly,

Myriam L. Chavez

Myriam L. Chavez

P. O. Box 36985
Albuquerque, NM 87176

February 6, 1987

The Honorable Pete V. Domenici
U. S. Senate
Room 343, Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Domenici:

This letter is written to request the amendment of Senate Bill 56 "El Malpais/Masau Trail" so that the publically owned portions of Albuquerque's West Mesa would be considered in the Nation Park Service's study to determine the appropriateness of their becoming a part of the Masau Trail. I speak specifically of Volcano Park, La Boca Negra Park, The Indian Petroglyph State Park, and Piedras Marcadas. To me, the inclusion of these lands would have two fold benefits -- they would add value to the Masau Trail, and at the same time they would receive the added protection they so greatly need.

Count me among those who will be eagerly awaiting news of the outcome of next week's Public Lands hearing.

With best wishes to you as you work for this state and this nation, I remain

Yours very truly,

Myriam L. Chavez
Myriam L. Chavez

cc:Senator Dale Bumpers

7005 Calle Quieta
Santa Fe, NM 87505
March 9, 1987

Senator Dale Bumpers, Chairman
Subcommittee on Public Lands, National Parks and Forests
Senate Energy and Natural Resources Committee
Washington, D.C. 20510

Dear Senator Bumpers:

Thank you for holding the record open for those of us in New Mexico who wanted to testify on Senate Bill - 56, and were not able to attend the hearings held in Washington DC on February 19, 1987. I would like to have this letter entered in the Congressional Record for the February 19 hearing on Senate Bill - 56, to establish El Malpais National Monument and other special areas.

I am a volunteer environmentalist. I have held many offices for several organizations over the 15 years I have worked on land use planning issues. I offer these remarks only as a concerned citizen. I represent no organization. This is something I have rarely been able to do, speak for myself.

I would like to thank our delegation for all the hard work that went into Senate Bill - 56. It is a good bill and will do much for the State of New Mexico.

I would like to commend Santa Fe Pacific Minerals Corp. for offering to trade its subsurface mineral rights under the wilderness study areas. Santa Fe has just given its subsurface mineral rights under Chaco Cultural National Historic Park to the Federal Government as part of a coal exchange. It is refreshing to work with an organization that recognizes the need to preserve unique lands by not using its rights, and offering to trade them for other locations.

While I think this is a good bill, I do have a few suggestions that I think may improve it. I would like to see the Chain of Craters area be included as wilderness, not as wilderness study as it is now being designated. The area has been studied for ten years. Let's not waste more money on more studies. BLM New Mexico has suggested that the area be designated wilderness at this time and I wholeheartedly concur.

Both BLM and the National Park Service should have sufficient funds to manage their areas. The funding should be included in the legislation if we cannot be assured that it will be part of the two agencies budgets.

I would like to see NM State Road 117 as the boundary on the east between the National Monument and National Conservation Area.

I find the name Grants National Conservation Area to be a bit lacking. I would suggest instead La Ventana National Conservation Area, after the large natural arch, or simply El Malpais National Conservation Area to be consistent with the National Monument.

I am pleased that there is no mention of banning the establishment of any federal reserved water rights included in Senate Bill -56. Federal reserved water rights is an important issue, but it is not one that should be included in this piece of legislation. The area has little water and most of the demand so far has been for ground water uses.

Again, I would like to thank our congressional delegation for the hard work that went into Senate Bill - 56. I would like to thank both Senators Domenici and Bingaman for sponsoring the legislation.

Thank you for this opportunity to add my comments to the testimony on Senate Bill - 56.

Sincerely yours,
Judith S Bishop
Judith S. Bishop

City of Aztec

WINNER ALL AMERICAN CITY AWARD

201 WEST CHACO
Aztec, New Mexico
87410
PHONE 505 334-9456

Bob Shumway, Mayor

February 16, 1987

Honorable Dale Bumpers
Chairman, Subcommittee of Public Lands,
National Parks & Forests
Committee on Energy & Natural Resources
United State Senate
Washington, D.C. 20510

Dear Honorable Bumpers:

The City of Aztec wishes to add our support for the Masau Trail legislation. Aztec, New Mexico houses the Northern most Anasazi Ruins in New Mexico. We provide a natural location for welcoming the travelers from the West and Northwest. Our ruins are world class and provide the people of today a glimpse of yesterday.

The Aztec Ruins is surrounded by beautiful farm lands and many of the acequias used by the Anasazi are still in use today. The City has a beautiful setting for a Vistors Center which we would like to offer for your consideration.

Our major industry is oil and gas. The decline in this industry has caused 21% unemployment in our county. Our city believes this project will be an economic boom for the area and will allow us to welcome additional travelers to our area thereby helping to revitalize our economy.

Sincerely yours,

Tweeti Blancett

Tweeti Blancett
City Manager

TB/cg

The Rio Grande Chapter of the Sierra Club
REPLY TO: Jack Kenney, 954 Santa Nino, Santa Fe, NM 87501

The Honorable Dale Bumpers
Chairman, Subcommittee of Public Lands,
National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

RE: Addendum to Sierra Club
Testimony on S. 56

Honorable Chairman Bumpers:

The Sierra Club, Rio Grande Chapter, requests inclusion of this addendum testimony on the Masau Trail in your Subcommittee's hearing record, thereby completing testimony already given you on the El Malpais.

The Sierra Club strongly supports establishment of the Masau Trail automobile tour route. Linking together Anasazi sites in northwestern New Mexico in this way is long overdue. The Trail will simultaneously educate visitors, preserve the sites, and multiply the economic benefits of tourism.

In regards to preserving the sites, we recommend that the National Park Service set stringent management standards for eligibility to be included in the Masau Trail blanket advertising.

In regards to educating visitors, we recommend that the National Park Service work closely with Indian Pueblo leaders to establish an interpretive program reflecting Native American views; and that, to the extent desired by Indian representatives, existing Pueblo cultural centers, museums, and other attractions be integrated with the other sites of antiquity on the Masau Trail. After all, the Pueblo Indians are the direct descendants of the Anasazi people. We especially recommend that the NPS study for inclusion the Puye Cliff Dwellings on the Santa Clara Indian reservation, the visitor program at Acoma, and cultural sites at the other Pueblos, especially Zuni and Taos.

The sites listed in Section 202 of S. 56 omit Pecos National Monument. As the ancestral home of the Jemez Pueblo peoples, we recommend that it be included by the NPS in their study of sites.

We support inclusion of State of New Mexico sites such as Coronado State Monument, as well, and understand that the New Mexico Natural Resources Department will be making recommendations.

To prevent the Masau Trail from becoming overloaded, the NPS might consider singling out several themes for visitors to choose from: Anasazi architecture, Anasazi art, Anasazi ceremonialism, contemporary Pueblo culture, etc.

Finally, we strongly urge that the NPS study existing publicly owned areas on Albuquerque's West Mesa for inclusion. La Boca Negra and Volcano Parks, together with Piedras Marcadas Arroyo, contain severl thousand dramatic petroglyphs, plus many archeological sites.

Sincerely yours,
Jack Kenney
Jack Kenney, Conservation Chairman

cc: Sen. Domenici
Sen. Bingaman
Rep. Richardson
Rep. Lujan

UTAH COLO
ARIZ. N.M.
CITY OF FARMINGTON, NEW MEXICO
OFFICE OF THE MAYOR
505/ 327-7711

March 17, 1987

The Honorable Dale Bumpers, Chairman
Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Re: Senate Bill #56 - El Malpais National Monument

Dear Senator Bumpers:

Senator Domenici's meeting on the El Malpais National Monument and the "Masau Trail" was informative and an action-oriented idea to promote New Mexico's rich and unique culture.

We in Farmington are particularly interested in the "Masau Trail" portion of Senate Bill #56. The proposed trail is shown going through Farmington on some maps, while not on others. We realize that specific trail segments will be designated by the Secretary as necessary to link the sites having cultural or natural significance.

We urge the Senate to consider the inclusion of Mesa Verde National Park in the bill. This park is the most visited cultural attraction in the Four Corners Region and would make an excellent northern anchor point for the trail. The inclusion of Mesa Verde National Park would also provide a second point of contact (the other being Canyon de Chelly) with the "Grand Circle Adventure" which currently includes fourteen national parks and monuments in Arizona, Utah and Colorado. We believe that the amount of tourist travel on the "Masau Trail" will be greatly increased with the addition of Mesa Verde National Park. An enclosed map shows how this expansion could be accomplished.

We appreciate your Subcommittee's support of this bill so important to the development of tourism in northwestern New Mexico.

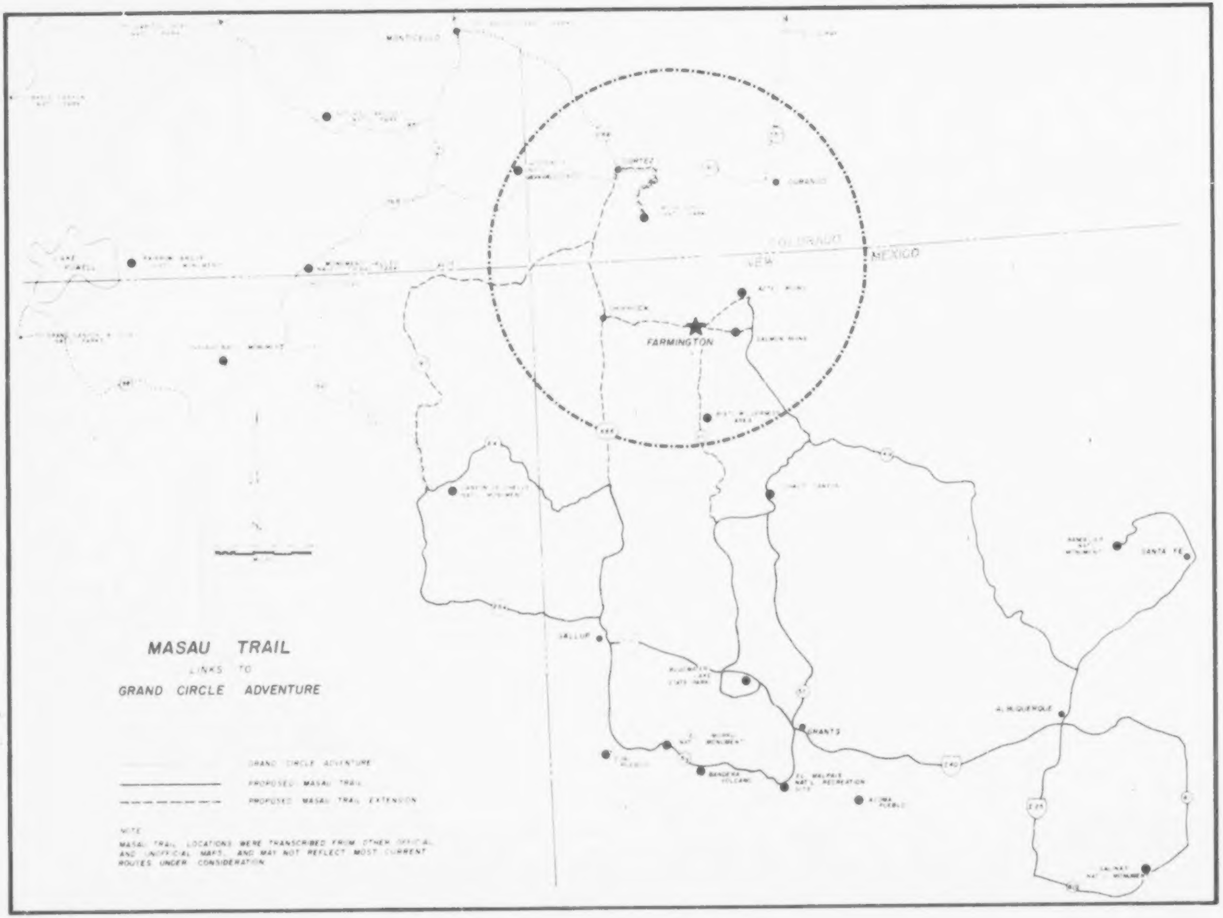
Sincerely,

Thomas C. Taylor
Mayor

c.c. The Hon. Pete V. Domenici
U.S. Senator

TCT/cs
Encl.

P O BOX 900, 87499



MASAU TRAIL
LINKS TO
GRAND CIRCLE ADVENTURE

GRAND CIRCLE ADVENTURE
PROPOSED MASAU TRAIL
PROPOSED MASAU TRAIL EXTENSION
MONTICELLO
LAKE POWELL
CORTEZ
DURANGO
COLORADO
NEW MEXICO
FARMINGTON
SALMON RUINS
GALLUP
GRANTS
BANDERA VOLCANO
EL MALPAIS NAT'L RECREATION SITE
ACOMA PUEBLO
ALBUQUERQUE
SANTA FE
SALINAS NAT'L MONUMENT
BLUEWATER LAKE STATE PARK
EL MORRO NAT'L MONUMENT
240
I 25

NOTE
MASAU TRAIL LOCATIONS WERE TRANSCRIBED FROM OTHER OFFICIAL AND UNOFFICIAL MAPS, AND MAY NOT REFLECT MOST CURRENT ROUTES UNDER CONSIDERATION.

Statement by Congressman Charles E. Bennett before the Senate Energy subcommittee regarding the "Big Cypress National Preserve Addition"

February 19, 1987

It is with great pride and support that I address the preservation of Florida's valuable wetlands. One of America's greatest system of wetlands, the Everglades, depends upon surrounding lands for protection of its watershed and of its diverse array of life, including the very rare and endangered Florida panther, the American Bald Eagle, as well as a unique variety of plant life. The proposed 136,000-acre addition to the Big Cypress National Preserve is a very important step in securing one of the few remaining parcels of pristine land in the State of Florida that serves a very vital role in the survival of a variety of life forms dependent upon the Everglades. Such an aquisition would include wetlands, cypress swamps and hardwood hammocks, which together provide a necessary buffer to the sensitive habitats of the Everglades.

Not only is this area important to wildlife, but it is beneficial to human beings as well. Protection of this diverse habitat will insure an adequate water supply system for the approximate 4.5 million Southern Floridians. Effective water management projects will result from the aquisition of these additional lands. Because the lands will be publicly owned, recreational opportunities in the Big Cypress National Preserve will be enhanced.

The proposal provides a unique opportunity to do a needed job in a way least expensive to the government, will enable the construction of an interstate sensitive to wildlife needs, and preserve lands vital to the activities of all many life forms. I fully support this land aquisition and hope that it lends way to additional preservation measures of Florida's unique and valuable wetlands.

12:05 EST

western union Telegram

PETE DOMENICI
434 DIRKSEN NEW SENATE OFFICE BLDG
WASHINGTON DC 20510

THANK YOU FOR INVITING REPRESENTATIVES OF LOS ALAMOS COUNTY TO MEET WITH YOU IN GRANTS ON FEBRUARY 10,1987 TO DISCUSS THE MASAU TRAIL PROPOSED.I SUPPORT YOUR EFFORTS TO ESTABLISH LEGISLATION THAT WOULD CREATE A LINK THROUGHOUT NORTHERN NEW MEXICO WITH EMPHASIS ON THE AREAS HISTORY AND CULTURE.THE LONG TERM BENEFITS TO LOS ALAMOS COUNTY AND THE REGION ARE OBVIOUS IN TERMS OF INCREASES IN TOURISM AND RECOGNITION OF THE NORTHERN NEW MEXICO REGION.WE WILL CONTINUE TO SUPPORT THIS EFFORT.

SINCERELY.
JEANNETTE WALLACE
CHAIRMAN,LOS ALAMOS COUNTY COUNCIL

(DELIVER)

COTA

12:05 EST

IPMPOMX WSH

Seminole Tribe
of Florida

COUNCIL

JAMES E. BILLIE
Chairman

CECIL JOHNS
Vice-Chairman

PRISCILLA SAYEN
Secretary-Treasurer

REPRESENTATIVES

JACOB OSCEOLA
Big Cypress

ROSIE BILLIE
Brighton

MAX OSCEOLA, JR.
Hollywood

NANCY McINTURFF
Immokalee (n.v.)

February 17, 1987

STATEMENT OF JAMES BILLIE
CHAIRMAN, SEMINOLE TRIBE
OF FLORIDA
BEFORE
THE SENATE COMMITTEE ON ENERGY
AND NATURAL RESOURCES

Mr. Chairman, my name is James Billie. I am the Chairman of the Seminole Tribe of Florida. The Seminole Tribe is a federally recognized Indian Tribe which has resided in and around the Big Cypress Preserve from time immemorial. Our ancestors occupied the present State of Florida, including the Big Cypress, long before the establishment of the United States. When the Big Cypress Preserve was set up in 1974, our special relationship to these lands was recognized by the Congress which expressly provided that we should continue our usual and customary use and occupancy of the Preserve. Our use has included hunting, fishing, and trapping on a subsistence basis, traditional tribal, ceremonial and residential use.

The current version of S.90 extends our rights to hunt, fish, and trap in the Big Cypress Addition (Section 4(b)). Also, Section 4(d) of the bill recognizes our rights regarding visitor services contracts. This provision includes the right of individual tribal members to continue to provide services which such members previously furnished and a tribal right of first refusal with respect to any new revenue-producing visitor services.

These provisions are important to our Tribe and its members. The pressure of modern development in South Florida has undermined our traditional subsistence economy and forced more and more of our people to seek economic support from other sources. We have for many years specialized in Everglades and Big Cypress related visitor services.

6073 Stirling Road • Hollywood, Florida 33024 • (305) 583-7112

Statement of James Billie
February 17, 1987
Page Two

We are pleased that S.90 recognizes our rights in both the original and new areas of the Big Cypress Preserve. We respectfully ask the Committee on Energy and Natural Resources to recommend to the full Senate that this bill, with its Indian provisions, be passed.

Sho Naa Bish,

James Billie
Chairman, Seminole Tribe of
Florida

JEB:dr

Florida Department of Transportation
Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32301-8064, Telephone (904) 488-8541

BOB MARTINEZ
GOVERNOR

KAYE N. HENDERSON
SECRETARY

March 12, 1987

Honorable Dale Bumpers, Chairman
Public Lands, Reserved Water and
Resource Conservation Subcommittee
SD-308 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Bumpers:

Regarding the Subcommittee hearing of February 19 on S. 90, the Big Cypress National Preserve Addition Act, submitted herewith is the testimony of the Florida Department of Transportation for inclusion in the hearing record.

We appreciated the opportunity to provide our views for consideration by the Subcommittee.

Sincerely,

Nick Serianni
Director of Federal Programs

NS/bls
Enclosure

STATEMENT OF THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING THE CONSTRUCTION OF I-75/ALLIGATOR ALLEY AND ITS RELATIONSHIP TO THE BIG CYPRESS NATIONAL PRESERVE ADDITION ACT (S.90)

March 9, 1987

The joint land acquisition concept proposed in S.90, the Big Cypress National Preserve Addition Act, provides for the leveraging of federal and state highway dollars, which must be expended in any case, with alternative federal and state funding sources to purchase entire parcels of land within the Addition. This concept greatly facilitates negotiations with property owners and has the potential to save considerable amounts of federal and state funds. The Florida Department of Transportation (FDOT) remains committed to this plan of jointly acquiring entire parcels of land under the provisions of S.90.

Approximately 89,000 acres of the total acreage comprising the Addition (126,000 acres) will be impacted by the construction of I-75/Alligator Alley and, therefore, is proposed for joint acquisition of entire parcels. While the Florida Department of Natural Resources (FDNR) is committed to the joint acquisition concept, state funding constraints limit FDNR participation to approximately 22,000 acres. The joint acquisition of the remaining 67,000 acres, comprised of two large land holdings, is, therefore, dependent upon passage of S.90 and requires the involvement and participation of the U.S. Department of the Interior (USDOI).

Regarding the 22,000 acres, the FDOT has begun the acquisition of parcels jointly with the FDNR. Purchase offers have been made to over 50 property owners, with approximately 20 agreements to settle already returned. The offers to the owners have been for a total taking of the property, as opposed to paying only severance damages caused by the construction of I-75/Alligator Alley. Remaining acquisitions (800± parcels) are scheduled to take 2-2½ years. The FDOT will continue to offer total taking of property, predicated on the balance of funds being provided by FDNR.

There are many potential benefits of offering to purchase the entire property rather than paying damages now and buying the remainder at a later date. Highway funds (both federal and state) are involved only where legal access to Alligator Alley is being severed by the construction of I-75. If the FDOT was to pay severance damages now, the property owner would retain title to his property. If access to the property could be re-established prior to subsequent acquisition efforts by USDOI, the property value could be as high as the original (pre I-75) value, causing a condition where an owner would be paid twice for the same property. Also, acquiring the entire property at once saves the expense of a second series of title searches, appraisals, negotiations and possibly condemnation actions.

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

February 17, 1987

Honorable Dale Bumpers
Chairman
Subcommittee on Public Lands,
Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
United States Senate, Room SD 308
Washington, D.C. 20510

Dear Chairman Bumpers:

Pursuant to your notice that the Subcommittee on Public Lands will hold a hearing on February 19, 1987, on S. 90, legislation to establish the Big Cypress National Preserve Addition in the State of Florida, the National Rifle Association of America respectfully submits the enclosed statement.

The NRA strongly endorses S. 90, as introduced, and requests that our statement be made a part of the official hearing record of February 19, 1987.

We appreciate the opportunity to comment on this issue of vital concern to the Sportsmen of South Florida and visiting hunting enthusiasts.

Sincerely,

James Jay Baker

James Jay Baker
Director
Governmental Affairs

STATEMENT OF THE
NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION

JAMES JAY BAKER
DIRECTOR
GOVERNMENTAL AFFAIRS

ON
LEGISLATION TO EXPAND THE BIG CYPRESS NATIONAL PRESERVE
S. 90

BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON
PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

FEBRUARY 19, 1987

National Rifle Association of America
Institute for Legislative Action
1600 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Statement of James Jay Baker,
Director of Governmental Affairs,
Institute for Legislative Action,
National Rifle Association of America.

February 19, 1987

Mr. Chairman, The National Rifle Association (NRA), composed of nearly 3 million members, strongly supports not only the preservation of hunting, fishing and trapping in the Big Cypress National Preserve and Addition, but also supports S. 90 which would require that the National Park Service promote and encourage hunting, fishing and trapping, while at the same time provide recreational access into the Big Cypress National Preserve and Addition.

There is absolutely no doubt that this bill is an important piece of legislation to our members. With the new Addition, this large block of land would help satisfy a variety of public needs, including hunting, fishing and trapping, not just for Floridians, but also for the State's millions of visitors each year. Last year alone over 500,000 Florida sportsmen took advantage of the opportunity to hunt, fish and trap in the Big Cypress and throughout the State.

The NRA applauds the legislative efforts of Senator Lawton Chiles (S. 90) and Congressman Tom Lewis (H.R. 184). Both bills, as originally introduced, include language requiring that the National Park Service promote and encourage hunting, fishing and trapping and provide access into the Big Cypress National Preserve. It is absolutely essential that this language be retained. The Sportsmen of South Florida have brought to the Chairman's attention and ours numerous examples showing the National Park Services' lack of cooperation with local sportsmen, a desire to close off access to the BCNP and, over regulation. These are definitely not the goals of the Senate or House bills.

Last year prior to House passage of Congressman Lewis' amended Big Cypress bill, the House Committee on Interior and Insular Affairs reported, in part, as follows:

> The Committee understands the strong interest of people living in southern Florida to be assured of their continuing access to the Big Cypress Preserve and Addition for recreational purposes, including hunting, fishing and trapping. The Committee has no wish to take action to limit the existing authority for such use, and encourages the Park Service to

> MANAGE THE RESOURCES TO MAINTAIN HIGH PRODUCTIVITY OF WILDLIFE AND FISHERIES, AND TO CONTINUE PRACTICES THAT ENCOURAGE THE TAKING OF A REASONABLE AMOUNT OF THESE RESOURCES.

THESE ARE HIGHLY LAUDABLE COMMENTS. HOWEVER, WE MUST ASSURE THE SPORTSMEN OF SOUTH FLORIDA AND OTHER VISITORS TO THE BCNP THAT THESE CONCERNS ARE IN LAW.

MR. CHAIRMAN, THERE IS NO BETTER WAY TO ASSURE THESE CONCERNS THAN BY ACCEPTANCE OF SENATOR CHILES' ORIGINAL LEGISLATION, S. 90, BY THIS COMMITTEE.

THE NATIONAL RIFLE ASSOCIATION JOINS SENATOR CHILES, CONGRESSMAN LEWIS AND THE SPORTSMEN OF SOUTH FLORIDA IN REQUESTING SWIFT LEGISLATIVE ACTION.

MR. CHAIRMAN, THANK ~~YOU FOR~~ THE OPPORTUNITY TO PRESENT THE VIEWS OF THE NATIONAL RIFLE ASSOCIATION ON BEHALF OF THIS VITALLY IMPORTANT LEGISLATION.